
SECOND ENGROSSED SECOND SUBSTITUTE HOUSE BILL 1738

State of Washington 62nd Legislature 2011 1st Special Session

By House Ways & Means (originally sponsored by Representatives Cody and Jenkins; by request of Governor Gregoire)

READ FIRST TIME 03/24/11.

1 AN ACT Relating to changing the designation of the medicaid single
2 state agency from the department of social and health services to the
3 health care authority and transferring the related powers, functions,
4 and duties to the health care authority; amending RCW 74.09.037,
5 74.09.050, 74.09.055, 74.09.075, 74.09.080, 74.09.120, 74.09.160,
6 74.09.180, 74.09.185, 74.09.190, 74.09.200, 74.09.210, 74.09.240,
7 74.09.260, 74.09.280, 74.09.290, 74.09.300, 74.09.470, 74.09.480,
8 74.09.490, 74.09.500, 74.09.510, 74.09.515, 74.09.520, 74.09.521,
9 74.09.5222, 74.09.5225, 74.09.530, 74.09.540, 74.09.555, 74.09.565,
10 74.09.575, 74.09.585, 74.09.595, 74.09.655, 74.09.658, 74.09.659,
11 74.09.700, 74.09.710, 74.09.715, 74.09.720, 74.09.725, 74.09.730,
12 74.09.770, 74.09.790, 74.09.800, 74.09.810, 74.09.820, 41.05.011,
13 41.05.015, 41.05.021, 41.05.036, 41.05.037, 41.05.140, 41.05.185,
14 43.20A.365, 74.04.005, 74.04.015, 74.04.025, 74.04.050, 74.04.055,
15 74.04.060, 74.04.062, 74.04.290, 7.68.080, 43.41.160, 43.41.260,
16 43.70.670, 47.06B.020, 47.06B.060, 47.06B.070, 48.01.235, 48.43.008,
17 48.43.517, 69.41.030, 69.41.190, 70.01.010, 70.47.010, 70.47.110,
18 70.48.130, 70.168.040, 70.225.040, 74.09A.005, 74.09A.010, 74.09A.020,
19 74.09A.030, and 74.09.015; reenacting and amending RCW 74.09.010,
20 74.09.035, 74.09.522, and 70.47.020; adding new sections to chapter
21 74.09 RCW; adding a new section to chapter 43.20A RCW; adding a new

1 chapter to Title 41 RCW; creating new sections; recodifying RCW
2 43.20A.365; repealing RCW 74.09.085, 74.09.110, 74.09.5221, 74.09.5227,
3 74.09.755, 43.20A.860, and 74.04.270; providing an effective date;
4 providing an expiration date; and declaring an emergency.

5 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF WASHINGTON:

6 NEW SECTION. **Sec. 1.** The legislature finds that:

7 (1) Washington state government must be organized to be efficient,
8 cost-effective, and responsive to its residents;

9 (2) The cost of state-purchased health care continues to grow at an
10 unsustainable rate, now representing nearly one-third of the state's
11 budget and hindering our ability to invest in other essential services
12 such as education and public safety;

13 (3) Responsibility for state health care purchasing is currently
14 spread over multiple agencies, but successful interagency collaboration
15 on quality and cost initiatives has helped demonstrate the benefits to
16 the state of centralized health care purchasing;

17 (4) Consolidating the majority of state health care purchasing into
18 a single state agency will best position the state to work with others,
19 including private sector purchasers, health insurance carriers, health
20 care providers, and consumers to increase the quality and affordability
21 of health care for all state residents;

22 (5) The development and implementation of uniform state policies
23 for all state-purchased health care is among the purposes for which the
24 health care authority was originally created; and

25 (6) The state will be best able to take advantage of the
26 opportunities and meet its obligations under the federal affordable
27 care act, including establishment of a health benefit exchange and
28 medicaid expansion, if primary responsibility for doing so rests with
29 a single state agency.

30 The legislature therefore intends, where appropriate, to
31 consolidate state health care purchasing within the health care
32 authority, positioning the state to use its full purchasing power to
33 get the greatest value for its money, and allowing other agencies to
34 focus even more intently on their core missions.

1 **Sec. 2.** RCW 74.09.010 and 2010 1st sp.s. c 8 s 28 are each
2 reenacted and amended to read as follows:

3 (~~(As used in this chapter:)~~) The definitions in this section apply
4 throughout this chapter unless the context clearly requires otherwise.

5 (1) "Authority" means the Washington state health care authority.

6 (2) "Children's health program" means the health care services
7 program provided to children under eighteen years of age and in
8 households with incomes at or below the federal poverty level as
9 annually defined by the federal department of health and human services
10 as adjusted for family size, and who are not otherwise eligible for
11 medical assistance or the limited casualty program for the medically
12 needy.

13 (~~((2) "Committee" means the children's health services committee~~
14 ~~created in section 3 of this act.))~~)

15 (3) "County" means the board of county commissioners, county
16 council, county executive, or tribal jurisdiction, or its designee.
17 (~~(A combination of two or more county authorities or tribal~~
18 ~~jurisdictions may enter into joint agreements to fulfill the~~
19 ~~requirements of RCW 74.09.415 through 74.09.435.))~~)

20 (4) "Department" means the department of social and health
21 services.

22 (5) "Department of health" means the Washington state department of
23 health created pursuant to RCW 43.70.020.

24 (6) "Director" means the director of the Washington state health
25 care authority.

26 (7) "Full benefit dual eligible beneficiary" means an individual
27 who, for any month: Has coverage for the month under a medicare
28 prescription drug plan or medicare advantage plan with part D coverage;
29 and is determined eligible by the state for full medicaid benefits for
30 the month under any eligibility category in the state's medicaid plan
31 or a section 1115 demonstration waiver that provides pharmacy benefits.

32 (~~((7))~~) (8) "Internal management" means the administration of
33 medical assistance, medical care services, the children's health
34 program, and the limited casualty program.

35 (~~((8))~~) (9) "Limited casualty program" means the medical care
36 program provided to medically needy persons as defined under Title XIX
37 of the federal social security act, and to medically indigent persons

1 who are without income or resources sufficient to secure necessary
2 medical services.

3 ~~((+9))~~ (10) "Medical assistance" means the federal aid medical
4 care program provided to categorically needy persons as defined under
5 Title XIX of the federal social security act.

6 ~~((+10))~~ (11) "Medical care services" means the limited scope of
7 care financed by state funds and provided to disability lifeline
8 benefits recipients, and recipients of alcohol and drug addiction
9 services provided under chapter 74.50 RCW.

10 ~~((+11))~~ (12) "Nursing home" means nursing home as defined in RCW
11 18.51.010.

12 ~~((+12))~~ (13) "Poverty" means the federal poverty level determined
13 annually by the United States department of health and human services,
14 or successor agency.

15 ~~((+13))~~ (14) "Secretary" means the secretary of social and health
16 services.

17 **Sec. 3.** RCW 74.09.035 and 2010 1st sp.s. c 8 s 29 and 2010 c 94 s
18 22 are each reenacted and amended to read as follows:

19 (1) To the extent of available funds, medical care services may be
20 provided to recipients of disability lifeline benefits, persons denied
21 disability lifeline benefits under RCW 74.04.005(5)(b) or 74.04.655 who
22 otherwise meet the requirements of RCW 74.04.005(5)(a), and recipients
23 of alcohol and drug addiction services provided under chapter 74.50
24 RCW, in accordance with medical eligibility requirements established by
25 the ~~((department))~~ authority. To the extent authorized in the
26 operating budget, upon implementation of a federal medicaid 1115 waiver
27 providing federal matching funds for medical care services, these
28 services also may be provided to persons who have been terminated from
29 disability lifeline benefits under RCW 74.04.005(5)(h).

30 (2) Determination of the amount, scope, and duration of medical
31 care services shall be limited to coverage as defined by the
32 ~~((department))~~ authority, except that adult dental, and routine foot
33 care shall not be included unless there is a specific appropriation for
34 these services.

35 (3) The ~~((department))~~ authority shall enter into performance-based
36 contracts with one or more managed health care systems for the

1 provision of medical care services to recipients of disability lifeline
2 benefits. The contract must provide for integrated delivery of medical
3 and mental health services.

4 (4) The ((~~department~~)) authority shall establish standards of
5 assistance and resource and income exemptions, which may include
6 deductibles and co-insurance provisions. In addition, the
7 ((~~department~~)) authority may include a prohibition against the
8 voluntary assignment of property or cash for the purpose of qualifying
9 for assistance.

10 (5) Residents of skilled nursing homes, intermediate care
11 facilities, and intermediate care facilities for ((~~the mentally~~
12 ~~retarded~~)) persons with intellectual disabilities, as that term is
13 described by federal law, who are eligible for medical care services
14 shall be provided medical services to the same extent as provided to
15 those persons eligible under the medical assistance program.

16 (6) Payments made by the ((~~department~~)) authority under this
17 program shall be the limit of expenditures for medical care services
18 solely from state funds.

19 (7) Eligibility for medical care services shall commence with the
20 date of certification for disability lifeline benefits or the date of
21 eligibility for alcohol and drug addiction services provided under
22 chapter 74.50 RCW.

23 **Sec. 4.** RCW 74.09.037 and 2004 c 115 s 3 are each amended to read
24 as follows:

25 Any card issued ((~~after December 31, 2005,~~)) by the ((~~department~~))
26 authority or a managed health care system to a person receiving
27 services under this chapter, that must be presented to providers for
28 purposes of claims processing, may not display an identification number
29 that includes more than a four-digit portion of the person's complete
30 social security number.

31 **Sec. 5.** RCW 74.09.050 and 2000 c 5 s 15 are each amended to read
32 as follows:

33 (1) The ((~~secretary~~)) director shall appoint such professional
34 personnel and other assistants and employees, including professional
35 medical screeners, as may be reasonably necessary to carry out the
36 provisions of this chapter. The medical screeners shall be supervised

1 by one or more physicians who shall be appointed by the ((secretary))
2 director or his or her designee. The ((secretary)) director shall
3 appoint a medical director who is licensed under chapter 18.57 or 18.71
4 RCW.

5 (2) Whenever the director's authority is not specifically limited
6 by law, he or she has complete charge and supervisory powers over the
7 authority. The director is authorized to create such administrative
8 structures as deemed appropriate, except as otherwise specified by law.
9 The director has the power to employ such assistants and personnel as
10 may be necessary for the general administration of the authority.
11 Except as elsewhere specified, such employment must be in accordance
12 with the rules of the state civil service law, chapter 41.06 RCW.

13 **Sec. 6.** RCW 74.09.055 and 2006 c 24 s 1 are each amended to read
14 as follows:

15 The ((department)) authority is authorized to establish copayment,
16 deductible, or coinsurance, or other cost-sharing requirements for
17 recipients of any medical programs defined in RCW 74.09.010, except
18 that premiums shall not be imposed on children in households at or
19 below two hundred percent of the federal poverty level.

20 **Sec. 7.** RCW 74.09.075 and 1979 c 141 s 337 are each amended to
21 read as follows:

22 The department or authority, as appropriate, shall provide ((+a))
23 (1) for evaluation of employability when a person is applying for
24 public assistance representing a medical condition as a basis for need,
25 and ((+b)) (2) for medical reports to be used in the evaluation of
26 total and permanent disability. It shall further provide for medical
27 consultation and assistance in determining the need for special diets,
28 housekeeper and attendant services, and other requirements as found
29 necessary because of the medical condition under the rules promulgated
30 by the secretary or director.

31 **Sec. 8.** RCW 74.09.080 and 1979 c 141 s 338 are each amended to
32 read as follows:

33 In carrying out the administrative responsibility of this chapter,
34 the department or authority, as appropriate:

1 (1) May contract with an individual or a group, may utilize
2 existing local state public assistance offices, or establish separate
3 welfare medical care offices on a county or multicounty unit basis as
4 found necessary; and

5 (2) Shall determine both financial and functional eligibility for
6 persons applying for long-term care services under chapter 74.39 or
7 74.39A RCW as a unified process in a single long-term care
8 organizational unit.

9 **Sec. 9.** RCW 74.09.120 and 2010 c 94 s 23 are each amended to read
10 as follows:

11 (~~The department shall purchase necessary physician and dentist~~
12 ~~services by contract or "fee for service."~~) (1) The department shall
13 purchase nursing home care by contract and payment for the care shall
14 be in accordance with the provisions of chapter 74.46 RCW and rules
15 adopted by the department (~~under the authority of RCW 74.46.800~~). No
16 payment shall be made to a nursing home which does not permit
17 inspection by the authority and the department (~~of social and health~~
18 ~~services~~) of every part of its premises and an examination of all
19 records, including financial records, methods of administration,
20 general and special dietary programs, the disbursement of drugs and
21 methods of supply, and any other records the authority or the
22 department deems relevant to the regulation of nursing home operations,
23 enforcement of standards for resident care, and payment for nursing
24 home services.

25 (2) The department may purchase nursing home care by contract in
26 veterans' homes operated by the state department of veterans affairs
27 and payment for the care shall be in accordance with the provisions of
28 chapter 74.46 RCW and rules adopted by the department under the
29 authority of RCW 74.46.800.

30 (3) The department may purchase care in institutions for persons
31 with intellectual disabilities, also known as intermediate care
32 facilities for persons with intellectual disabilities. The department
33 shall establish rules for reasonable accounting and reimbursement
34 systems for such care. Institutions for persons with intellectual
35 disabilities include licensed nursing homes, public institutions,
36 licensed boarding homes with fifteen beds or less, and hospital
37 facilities certified as intermediate care facilities for persons with

1 intellectual disabilities under the federal medicaid program to provide
2 health, habilitative, or rehabilitative services and twenty-four hour
3 supervision for persons with intellectual disabilities or related
4 conditions and includes in the program "active treatment" as federally
5 defined.

6 (4) The department may purchase care in institutions for mental
7 diseases by contract. The department shall establish rules for
8 reasonable accounting and reimbursement systems for such care.
9 Institutions for mental diseases are certified under the federal
10 medicaid program and primarily engaged in providing diagnosis,
11 treatment, or care to persons with mental diseases, including medical
12 attention, nursing care, and related services.

13 (5) Both the department and the authority may each purchase all
14 other services provided under this chapter by contract or at rates
15 established by the department or the authority respectively.

16 **Sec. 10.** RCW 74.09.160 and 1991 c 103 s 1 are each amended to read
17 as follows:

18 Each vendor or group who has a contract and is rendering service to
19 eligible persons as defined in this chapter shall submit such charges
20 as agreed upon between the department or authority, as appropriate, and
21 the individual or group no later than twelve months from the date of
22 service. If the final charges are not presented within the twelve-
23 month period, they shall not be a charge against the state. Said
24 twelve-month period may also be extended by regulation, but only if
25 required by applicable federal law or regulation, and to no more than
26 the extension of time so required. ~~((For services rendered prior to
27 July 28, 1991, final charges shall not be a charge against the state
28 unless they are presented within one hundred twenty days from the date
29 of service.))~~

30 **Sec. 11.** RCW 74.09.180 and 1997 c 236 s 1 are each amended to read
31 as follows:

32 (1) The provisions of this chapter shall not apply to recipients
33 whose personal injuries are occasioned by negligence or wrong of
34 another: PROVIDED, HOWEVER, That the ~~((secretary))~~ director may
35 furnish assistance, under the provisions of this chapter, for the
36 results of injuries to or illness of a recipient, and the

1 ((department)) authority shall thereby be subrogated to the recipient's
2 rights against the recovery had from any tort feisor or the tort
3 feisor's insurer, or both, and shall have a lien thereupon to the
4 extent of the value of the assistance furnished by the ((department))
5 authority. To secure reimbursement for assistance provided under this
6 section, the ((department)) authority may pursue its remedies under
7 ((RCW 43.20B.060)) section 95 of this act.

8 (2) The rights and remedies provided to the ((department))
9 authority in this section to secure reimbursement for assistance,
10 including the ((department's)) authority's lien and subrogation rights,
11 may be delegated to a managed health care system by contract entered
12 into pursuant to RCW 74.09.522. A managed health care system may
13 enforce all rights and remedies delegated to it by the ((department))
14 authority to secure and recover assistance provided under a managed
15 health care system consistent with its agreement with the
16 ((department)) authority.

17 **Sec. 12.** RCW 74.09.185 and 1995 c 34 s 6 are each amended to read
18 as follows:

19 To the extent that payment for covered expenses has been made under
20 medical assistance for health care items or services furnished to an
21 individual, in any case where a third party has a legal liability to
22 make payments, the state is considered to have acquired the rights of
23 the individual to payment by any other party for those health care
24 items or services. Recovery pursuant to the subrogation rights,
25 assignment, or enforcement of the lien granted to the ((department))
26 authority by this section shall not be reduced, prorated, or applied to
27 only a portion of a judgment, award, or settlement, except as provided
28 in ((RCW 43.20B.050 and 43.20B.060)) sections 94 and 95 of this act.
29 The doctrine of equitable subrogation shall not apply to defeat,
30 reduce, or prorate recovery by the ((department)) authority as to its
31 assignment, lien, or subrogation rights.

32 **Sec. 13.** RCW 74.09.190 and 1979 c 141 s 342 are each amended to
33 read as follows:

34 Nothing in this chapter shall be construed as empowering the
35 secretary or director to compel any recipient of public assistance and
36 a medical indigent person to undergo any physical examination, surgical

1 operation, or accept any form of medical treatment contrary to the
2 wishes of said person who relies on or is treated by prayer or
3 spiritual means in accordance with the creed and tenets of any well
4 recognized church or religious denomination.

5 **Sec. 14.** RCW 74.09.200 and 1979 ex.s. c 152 s 1 are each amended
6 to read as follows:

7 The legislature finds and declares it to be in the public interest
8 and for the protection of the health and welfare of the residents of
9 the state of Washington that a proper regulatory and inspection program
10 be instituted in connection with the providing of medical, dental, and
11 other health services to recipients of public assistance and medically
12 indigent persons. In order to effectively accomplish such purpose and
13 to assure that the recipient of such services receives such services as
14 are paid for by the state of Washington, the acceptance by the
15 recipient of such services, and by practitioners of reimbursement for
16 performing such services, shall authorize the secretary (~~of the~~
17 ~~department of social and health services~~) or (~~his designee~~)
18 director, to inspect and audit all records in connection with the
19 providing of such services.

20 **Sec. 15.** RCW 74.09.210 and 1989 c 175 s 146 are each amended to
21 read as follows:

22 (1) No person, firm, corporation, partnership, association, agency,
23 institution, or other legal entity, but not including an individual
24 public assistance recipient of health care, shall, on behalf of himself
25 or others, obtain or attempt to obtain benefits or payments under this
26 chapter in a greater amount than that to which entitled by means of:

- 27 (a) A willful false statement;
- 28 (b) By willful misrepresentation, or by concealment of any material
29 facts; or

30 (c) By other fraudulent scheme or device, including, but not
31 limited to:

- 32 (i) Billing for services, drugs, supplies, or equipment that were
33 unfurnished, of lower quality, or a substitution or misrepresentation
34 of items billed; or

35 (ii) Repeated billing for purportedly covered items, which were not
36 in fact so covered.

1 (2) Any person or entity knowingly violating any of the provisions
2 of subsection (1) of this section shall be liable for repayment of any
3 excess benefits or payments received, plus interest at the rate and in
4 the manner provided in RCW 43.20B.695. Such person or other entity
5 shall further, in addition to any other penalties provided by law, be
6 subject to civil penalties. The secretary or director, as appropriate,
7 may assess civil penalties in an amount not to exceed three times the
8 amount of such excess benefits or payments: PROVIDED, That these civil
9 penalties shall not apply to any acts or omissions occurring prior to
10 September 1, 1979. RCW 43.20A.215 governs notice of a civil fine and
11 provides the right to an adjudicative proceeding.

12 (3) A criminal action need not be brought against a person for that
13 person to be civilly liable under this section.

14 (4) In all proceedings under this section, service, adjudicative
15 proceedings, and judicial review of such determinations shall be in
16 accordance with chapter 34.05 RCW, the administrative procedure act.

17 (5) Civil penalties shall be deposited in the general fund upon
18 their receipt.

19 **Sec. 16.** RCW 74.09.240 and 1995 c 319 s 1 are each amended to read
20 as follows:

21 (1) Any person, including any corporation, that solicits or
22 receives any remuneration (including any kickback, bribe, or rebate)
23 directly or indirectly, overtly or covertly, in cash or in kind

24 (a) in return for referring an individual to a person for the
25 furnishing or arranging for the furnishing of any item or service for
26 which payment may be made in whole or in part under this chapter, or

27 (b) in return for purchasing, leasing, ordering, or arranging for
28 or recommending purchasing, leasing, or ordering any goods, facility,
29 service, or item for which payment may be made in whole or in part
30 under this chapter,

31 shall be guilty of a class C felony; however, the fine, if imposed,
32 shall not be in an amount more than twenty-five thousand dollars,
33 except as authorized by RCW 9A.20.030.

34 (2) Any person, including any corporation, that offers or pays any
35 remuneration (including any kickback, bribe, or rebate) directly or
36 indirectly, overtly or covertly, in cash or in kind to any person to
37 induce such person

1 (a) to refer an individual to a person for the furnishing or
2 arranging for the furnishing of any item or service for which payment
3 may be made, in whole or in part, under this chapter, or

4 (b) to purchase, lease, order, or arrange for or recommend
5 purchasing, leasing, or ordering any goods, facility, service, or item
6 for which payment may be made in whole or in part under this chapter,
7 shall be guilty of a class C felony; however, the fine, if imposed,
8 shall not be in an amount more than twenty-five thousand dollars,
9 except as authorized by RCW 9A.20.030.

10 (3)(a) Except as provided in 42 U.S.C. 1395 nn, physicians are
11 prohibited from self-referring any client eligible under this chapter
12 for the following designated health services to a facility in which the
13 physician or an immediate family member has a financial relationship:

- 14 (i) Clinical laboratory services;
- 15 (ii) Physical therapy services;
- 16 (iii) Occupational therapy services;
- 17 (iv) Radiology including magnetic resonance imaging, computerized
18 axial tomography, and ultrasound services;
- 19 (v) Durable medical equipment and supplies;
- 20 (vi) Parenteral and enteral nutrients equipment and supplies;
- 21 (vii) Prosthetics, orthotics, and prosthetic devices;
- 22 (viii) Home health services;
- 23 (ix) Outpatient prescription drugs;
- 24 (x) Inpatient and outpatient hospital services;
- 25 (xi) Radiation therapy services and supplies.

26 (b) For purposes of this subsection, "financial relationship" means
27 the relationship between a physician and an entity that includes
28 either:

- 29 (i) An ownership or investment interest; or
- 30 (ii) A compensation arrangement.

31 For purposes of this subsection, "compensation arrangement" means
32 an arrangement involving remuneration between a physician, or an
33 immediate family member of a physician, and an entity.

34 (c) The department or authority, as appropriate, is authorized to
35 adopt by rule amendments to 42 U.S.C. 1395 nn enacted after July 23,
36 1995.

37 (d) This section shall not apply in any case covered by a general
38 exception specified in 42 U.S.C. Sec. 1395 nn.

1 (4) Subsections (1) and (2) of this section shall not apply to:
2 (a) A discount or other reduction in price obtained by a provider
3 of services or other entity under this chapter if the reduction in
4 price is properly disclosed and appropriately reflected in the costs
5 claimed or charges made by the provider or entity under this
6 chapter(~~(τ)~~); and

7 (b) Any amount paid by an employer to an employee (who has a bona
8 fide employment relationship with such employer) for employment in the
9 provision of covered items or services.

10 (5) Subsections (1) and (2) of this section, if applicable to the
11 conduct involved, shall supersede the criminal provisions of chapter
12 19.68 RCW, but shall not preclude administrative proceedings authorized
13 by chapter 19.68 RCW.

14 **Sec. 17.** RCW 74.09.260 and 1991 sp.s. c 8 s 7 are each amended to
15 read as follows:

16 Any person, including any corporation, that knowingly:

17 (1) Charges, for any service provided to a patient under any
18 medical care plan authorized under this chapter, money or other
19 consideration at a rate in excess of the rates established by the
20 department (~~(of social and health services)~~) or authority, as
21 appropriate; or

22 (2) Charges, solicits, accepts, or receives, in addition to any
23 amount otherwise required to be paid under such plan, any gift, money,
24 donation, or other consideration (other than a charitable, religious,
25 or philanthropic contribution from an organization or from a person
26 unrelated to the patient):

27 (a) As a precondition of admitting a patient to a hospital or
28 nursing facility; or

29 (b) As a requirement for the patient's continued stay in such
30 facility,
31 when the cost of the services provided therein to the patient is paid
32 for, in whole or in part, under such plan, shall be guilty of a class
33 C felony: PROVIDED, That the fine, if imposed, shall not be in an
34 amount more than twenty-five thousand dollars, except as authorized by
35 RCW 9A.20.030.

1 **Sec. 18.** RCW 74.09.280 and 1979 ex.s. c 152 s 9 are each amended
2 to read as follows:

3 The secretary (~~(of social and health services)~~) or director may by
4 rule require that any application, statement, or form filled out by
5 suppliers of medical care under this chapter shall contain or be
6 verified by a written statement that it is made under the penalties of
7 perjury and such declaration shall be in lieu of any oath otherwise
8 required, and each such paper shall in such event so state. The making
9 or subscribing of any such papers or forms containing any false or
10 misleading information may be prosecuted and punished under chapter
11 9A.72 RCW.

12 **Sec. 19.** RCW 74.09.290 and 1994 sp.s. c 9 s 749 are each amended
13 to read as follows:

14 The secretary (~~(of the department of social and health services)~~)
15 or (~~(his authorized representative)~~) director shall have the authority
16 to:

17 (1) Conduct audits and investigations of providers of medical and
18 other services furnished pursuant to this chapter, except that the
19 Washington state medical quality assurance commission shall generally
20 serve in an advisory capacity to the secretary or director in the
21 conduct of audits or investigations of physicians. Any overpayment
22 discovered as a result of an audit of a provider under this authority
23 shall be offset by any underpayments discovered in that same audit
24 sample. In order to determine the provider's actual, usual, customary,
25 or prevailing charges, the secretary or director may examine such
26 random representative records as necessary to show accounts billed and
27 accounts received except that in the conduct of such examinations,
28 patient names, other than public assistance applicants or recipients,
29 shall not be noted, copied, or otherwise made available to the
30 department or authority. In order to verify costs incurred by the
31 department or authority for treatment of public assistance applicants
32 or recipients, the secretary or director may examine patient records or
33 portions thereof in connection with services to such applicants or
34 recipients rendered by a health care provider, notwithstanding the
35 provisions of RCW 5.60.060, 18.53.200, 18.83.110, or any other statute
36 which may make or purport to make such records privileged or
37 confidential: PROVIDED, That no original patient records shall be

1 removed from the premises of the health care provider, and that the
2 disclosure of any records or information by the department (~~(of social~~
3 ~~and health services))~~ or the authority is prohibited and shall be
4 punishable as a class C felony according to chapter 9A.20 RCW, unless
5 such disclosure is directly connected to the official purpose for which
6 the records or information were obtained: PROVIDED FURTHER, That the
7 disclosure of patient information as required under this section shall
8 not subject any physician or other health services provider to any
9 liability for breach of any confidential relationship between the
10 provider and the patient, but no evidence resulting from such
11 disclosure may be used in any civil, administrative, or criminal
12 proceeding against the patient unless a waiver of the applicable
13 evidentiary privilege is obtained: PROVIDED FURTHER, That the
14 secretary or director shall destroy all copies of patient medical
15 records in their possession upon completion of the audit, investigation
16 or proceedings;

17 (2) Approve or deny applications to participate as a provider of
18 services furnished pursuant to this chapter;

19 (3) Terminate or suspend eligibility to participate as a provider
20 of services furnished pursuant to this chapter; and

21 (4) Adopt, promulgate, amend, and repeal administrative rules, in
22 accordance with the administrative procedure act, chapter 34.05 RCW, to
23 carry out the policies and purposes of RCW 74.09.200 through 74.09.290.

24 **Sec. 20.** RCW 74.09.300 and 1979 ex.s. c 152 s 11 are each amended
25 to read as follows:

26 Whenever the secretary (~~(of the department of social and health~~
27 ~~services))~~ or director imposes a civil penalty under RCW 74.09.210, or
28 terminates or suspends a provider's eligibility under RCW 74.09.290, he
29 or she shall, if the provider is licensed pursuant to Titles 18, 70, or
30 71 RCW, give written notice of such imposition, termination, or
31 suspension to the appropriate licensing agency or disciplinary board.

32 **Sec. 21.** RCW 74.09.470 and 2009 c 463 s 2 are each amended to read
33 as follows:

34 (1) Consistent with the goals established in RCW 74.09.402, through
35 the apple health for kids program authorized in this section, the
36 (~~department~~) authority shall provide affordable health care coverage

1 to children under the age of nineteen who reside in Washington state
2 and whose family income at the time of enrollment is not greater than
3 two hundred fifty percent of the federal poverty level as adjusted for
4 family size and determined annually by the federal department of health
5 and human services, and effective January 1, 2009, and only to the
6 extent that funds are specifically appropriated therefor, to children
7 whose family income is not greater than three hundred percent of the
8 federal poverty level. In administering the program, the
9 ((department)) authority shall take such actions as may be necessary to
10 ensure the receipt of federal financial participation under the medical
11 assistance program, as codified at Title XIX of the federal social
12 security act, the state children's health insurance program, as
13 codified at Title XXI of the federal social security act, and any other
14 federal funding sources that are now available or may become available
15 in the future. The ((department)) authority and the caseload forecast
16 council shall estimate the anticipated caseload and costs of the
17 program established in this section.

18 (2) The ((department)) authority shall accept applications for
19 enrollment for children's health care coverage; establish appropriate
20 minimum-enrollment periods, as may be necessary; and determine
21 eligibility based on current family income. The ((department))
22 authority shall make eligibility determinations within the time frames
23 for establishing eligibility for children on medical assistance, as
24 defined by RCW 74.09.510. The application and annual renewal processes
25 shall be designed to minimize administrative barriers for applicants
26 and enrolled clients, and to minimize gaps in eligibility for families
27 who are eligible for coverage. If a change in family income results in
28 a change in the source of funding for coverage, the ((department))
29 authority shall transfer the family members to the appropriate source
30 of funding and notify the family with respect to any change in premium
31 obligation, without a break in eligibility. The ((department))
32 authority shall use the same eligibility redetermination and appeals
33 procedures as those provided for children on medical assistance
34 programs. The ((department)) authority shall modify its eligibility
35 renewal procedures to lower the percentage of children failing to
36 annually renew. The ((department)) authority shall manage its
37 outreach, application, and renewal procedures with the goals of: (a)
38 Achieving year by year improvements in enrollment, enrollment rates,

1 renewals, and renewal rates; (b) maximizing the use of existing program
2 databases to obtain information related to earned and unearned income
3 for purposes of eligibility determination and renewals, including, but
4 not limited to, the basic food program, the child care subsidy program,
5 federal social security administration programs, and the employment
6 security department wage database; (c) streamlining renewal processes
7 to rely primarily upon data matches, online submissions, and telephone
8 interviews; and (d) implementing any other eligibility determination
9 and renewal processes to allow the state to receive an enhanced federal
10 matching rate and additional federal outreach funding available through
11 the federal children's health insurance program reauthorization act of
12 2009 by January 2010. The department shall advise the governor and the
13 legislature regarding the status of these efforts by September 30,
14 2009. The information provided should include the status of the
15 department's efforts, the anticipated impact of those efforts on
16 enrollment, and the costs associated with that enrollment.

17 (3) To ensure continuity of care and ease of understanding for
18 families and health care providers, and to maximize the efficiency of
19 the program, the amount, scope, and duration of health care services
20 provided to children under this section shall be the same as that
21 provided to children under medical assistance, as defined in RCW
22 74.09.520.

23 (4) The primary mechanism for purchasing health care coverage under
24 this section shall be through contracts with managed health care
25 systems as defined in RCW 74.09.522, subject to conditions,
26 limitations, and appropriations provided in the biennial appropriations
27 act. However, the ((department)) authority shall make every effort
28 within available resources to purchase health care coverage for
29 uninsured children whose families have access to dependent coverage
30 through an employer-sponsored health plan or another source when it is
31 cost-effective for the state to do so, and the purchase is consistent
32 with requirements of Title XIX and Title XXI of the federal social
33 security act. To the extent allowable under federal law, the
34 ((department)) authority shall require families to enroll in available
35 employer-sponsored coverage, as a condition of participating in the
36 program established under this section, when it is cost-effective for
37 the state to do so. Families who enroll in available employer-

1 sponsored coverage under this section shall be accounted for separately
2 in the annual report required by RCW 74.09.053.

3 (5)(a) To reflect appropriate parental responsibility, the
4 (~~department~~) authority shall develop and implement a schedule of
5 premiums for children's health care coverage due to the (~~department~~)
6 authority from families with income greater than two hundred percent of
7 the federal poverty level. For families with income greater than two
8 hundred fifty percent of the federal poverty level, the premiums shall
9 be established in consultation with the senate majority and minority
10 leaders and the speaker and minority leader of the house of
11 representatives. Premiums shall be set at a reasonable level that does
12 not pose a barrier to enrollment. The amount of the premium shall be
13 based upon family income and shall not exceed the premium limitations
14 in Title XXI of the federal social security act. Premiums shall not be
15 imposed on children in households at or below two hundred percent of
16 the federal poverty level as articulated in RCW 74.09.055.

17 (b) Beginning no later than January 1, 2010, the (~~department~~)
18 authority shall offer families whose income is greater than three
19 hundred percent of the federal poverty level the opportunity to
20 purchase health care coverage for their children through the programs
21 administered under this section without an explicit premium subsidy
22 from the state. The design of the health benefit package offered to
23 these children should provide a benefit package substantially similar
24 to that offered in the apple health for kids program, and may differ
25 with respect to cost-sharing, and other appropriate elements from that
26 provided to children under subsection (3) of this section including,
27 but not limited to, application of preexisting conditions, waiting
28 periods, and other design changes needed to offer affordable coverage.
29 The amount paid by the family shall be in an amount equal to the rate
30 paid by the state to the managed health care system for coverage of the
31 child, including any associated and administrative costs to the state
32 of providing coverage for the child. Any pooling of the program
33 enrollees that results in state fiscal impact must be identified and
34 brought to the legislature for consideration.

35 (6) The (~~department~~) authority shall undertake and continue a
36 proactive, targeted outreach and education effort with the goal of
37 enrolling children in health coverage and improving the health literacy
38 of youth and parents. The (~~department~~) authority shall collaborate

1 with the department of social and health services, department of
2 health, local public health jurisdictions, the office of the
3 superintendent of public instruction, the department of early learning,
4 health educators, health care providers, health carriers, community-
5 based organizations, and parents in the design and development of this
6 effort. The outreach and education effort shall include the following
7 components:

8 (a) Broad dissemination of information about the availability of
9 coverage, including media campaigns;

10 (b) Assistance with completing applications, and community-based
11 outreach efforts to help people apply for coverage. Community-based
12 outreach efforts should be targeted to the populations least likely to
13 be covered;

14 (c) Use of existing systems, such as enrollment information from
15 the free and reduced-price lunch program, the department of early
16 learning child care subsidy program, the department of health's women,
17 infants, and children program, and the early childhood education and
18 assistance program, to identify children who may be eligible but not
19 enrolled in coverage;

20 (d) Contracting with community-based organizations and government
21 entities to support community-based outreach efforts to help families
22 apply for coverage. These efforts should be targeted to the
23 populations least likely to be covered. The (~~department~~) authority
24 shall provide informational materials for use by government entities
25 and community-based organizations in their outreach activities, and
26 should identify any available federal matching funds to support these
27 efforts;

28 (e) Development and dissemination of materials to engage and inform
29 parents and families statewide on issues such as: The benefits of
30 health insurance coverage; the appropriate use of health services,
31 including primary care provided by health care practitioners licensed
32 under chapters 18.71, 18.57, 18.36A, and 18.79 RCW, and emergency
33 services; the value of a medical home, well-child services and
34 immunization, and other preventive health services with linkages to
35 department of health child profile efforts; identifying and managing
36 chronic conditions such as asthma and diabetes; and the value of good
37 nutrition and physical activity;

1 (f) An evaluation of the outreach and education efforts, based upon
2 clear, cost-effective outcome measures that are included in contracts
3 with entities that undertake components of the outreach and education
4 effort;

5 (g) An implementation plan to develop online application capability
6 that is integrated with the ~~((department's))~~ automated client
7 eligibility system, and to develop data linkages with the office of the
8 superintendent of public instruction for free and reduced-price lunch
9 enrollment information and the department of early learning for child
10 care subsidy program enrollment information.

11 (7) The ~~((department))~~ authority shall take action to increase the
12 number of primary care physicians providing dental disease preventive
13 services including oral health screenings, risk assessment, family
14 education, the application of fluoride varnish, and referral to a
15 dentist as needed.

16 (8) The department shall monitor the rates of substitution between
17 private-sector health care coverage and the coverage provided under
18 this section ~~((and shall report to appropriate committees of the
19 legislature by December 2010))~~.

20 **Sec. 22.** RCW 74.09.480 and 2009 c 463 s 4 are each amended to read
21 as follows:

22 (1) The ~~((department))~~ authority, in collaboration with the
23 department of health, department of social and health services, health
24 carriers, local public health jurisdictions, children's health care
25 providers including pediatricians, family practitioners, and pediatric
26 subspecialists, community and migrant health centers, parents, and
27 other purchasers, shall establish a concise set of explicit performance
28 measures that can indicate whether children enrolled in the program are
29 receiving health care through an established and effective medical
30 home, and whether the overall health of enrolled children is improving.
31 Such indicators may include, but are not limited to:

32 (a) Childhood immunization rates;

33 (b) Well child care utilization rates, including the use of
34 behavioral and oral health screening, and validated, structured
35 developmental screens using tools, that are consistent with nationally
36 accepted pediatric guidelines and recommended administration schedule,
37 once funding is specifically appropriated for this purpose;

1 (c) Care management for children with chronic illnesses;
2 (d) Emergency room utilization;
3 (e) Visual acuity and eye health;
4 (f) Preventive oral health service utilization; and
5 (g) Children's mental health status. In defining these measures
6 the ((department)) authority shall be guided by the measures provided
7 in RCW 71.36.025.

8 Performance measures and targets for each performance measure must
9 be established and monitored each biennium, with a goal of achieving
10 measurable, improved health outcomes for the children of Washington
11 state each biennium.

12 (2) Beginning in calendar year 2009, targeted provider rate
13 increases shall be linked to quality improvement measures established
14 under this section. The ((department)) authority, in conjunction with
15 those groups identified in subsection (1) of this section, shall
16 develop parameters for determining criteria for increased payment,
17 alternative payment methodologies, or other incentives for those
18 practices and health plans that incorporate evidence-based practice and
19 improve and achieve sustained improvement with respect to the measures.

20 (3) The department shall provide a report to the governor and the
21 legislature related to provider performance on these measures,
22 beginning in September 2010 for 2007 through 2009 and the authority
23 shall provide the report biennially thereafter. ((The department shall
24 advise the legislature as to its progress towards developing this
25 biennial reporting system by September 30, 2009.))

26 **Sec. 23.** RCW 74.09.490 and 2007 c 359 s 5 are each amended to read
27 as follows:

28 (1)((+a)) The ((department)) authority, in consultation with the
29 evidence-based practice institute established in RCW 71.24.061, shall
30 develop and implement policies to improve prescribing practices for
31 treatment of emotional or behavioral disturbances in children, improve
32 the quality of children's mental health therapy through increased use
33 of evidence-based and research-based practices and reduced variation in
34 practice, improve communication and care coordination between primary
35 care and mental health providers, and prioritize care in the family
36 home or care which integrates the family where out-of-home placement is
37 required.

1 ~~((b))~~ (2) The ~~((department))~~ authority shall identify those
2 children with emotional or behavioral disturbances who may be at high
3 risk due to off-label use of prescription medication, use of multiple
4 medications, high medication dosage, or lack of coordination among
5 multiple prescribing providers, and establish one or more mechanisms to
6 evaluate the appropriateness of the medication these children are
7 using, including but not limited to obtaining second opinions from
8 experts in child psychiatry.

9 ~~((c))~~ (3) The ~~((department))~~ authority shall review the
10 psychotropic medications of all children under five and establish one
11 or more mechanisms to evaluate the appropriateness of the medication
12 these children are using, including but not limited to obtaining second
13 opinions from experts in child psychiatry.

14 ~~((d))~~ (4) The ~~((department))~~ authority shall track prescriptive
15 practices with respect to psychotropic medications with the goal of
16 reducing the use of medication.

17 ~~((e))~~ (5) The ~~((department))~~ authority shall encourage the use of
18 cognitive behavioral therapies and other treatments which are
19 empirically supported or evidence-based, in addition to or in the place
20 of prescription medication where appropriate.

21 ~~((2)–The–department–shall–convene–a–representative–group–of
22 regional support networks, community mental health centers, and managed
23 health care systems contracting with the department under RCW 74.09.522
24 to:~~

25 ~~(a) Establish mechanisms and develop contract language that ensures
26 increased coordination of and access to medicaid mental health benefits
27 available to children and their families, including ensuring access to
28 services that are identified as a result of a developmental screen
29 administered – through – early – periodic – screening, – diagnosis, – and
30 treatment;~~

31 ~~(b) Define managed health care system and regional support network
32 contractual performance standards that track access to and utilization
33 of services; and~~

34 ~~(c) Set standards for reducing the number of children that are
35 prescribed antipsychotic drugs and receive no outpatient mental health
36 services with their medication.~~

37 ~~(3)–The–department–shall–submit–a–report–on–progress–and–any
38 findings under this section to the legislature by January 1, 2009.))~~

1 **Sec. 24.** RCW 74.09.500 and 1979 c 141 s 343 are each amended to
2 read as follows:

3 There is hereby established a new program of federal-aid assistance
4 to be known as medical assistance to be administered by the ((~~state~~
5 ~~department of social and health services~~)) authority. The ((~~department~~
6 ~~of social and health services~~)) authority is authorized to comply with
7 the federal requirements for the medical assistance program provided in
8 the social security act and particularly Title XIX of Public Law (89-
9 97), as amended, in order to secure federal matching funds for such
10 program.

11 **Sec. 25.** RCW 74.09.510 and 2010 c 94 s 24 are each amended to read
12 as follows:

13 Medical assistance may be provided in accordance with eligibility
14 requirements established by the ((~~department~~)) authority, as defined in
15 the social security Title XIX state plan for mandatory categorically
16 needy persons and:

17 (1) Individuals who would be eligible for cash assistance except
18 for their institutional status;

19 (2) Individuals who are under twenty-one years of age, who would be
20 eligible for medicaid, but do not qualify as dependent children and who
21 are in (a) foster care, (b) subsidized adoption, (c) a nursing facility
22 or an intermediate care facility for persons with intellectual
23 disabilities, or (d) inpatient psychiatric facilities;

24 (3) Individuals who:

25 (a) Are under twenty-one years of age;

26 (b) On or after July 22, 2007, were in foster care under the legal
27 responsibility of the department or a federally recognized tribe
28 located within the state; and

29 (c) On their eighteenth birthday, were in foster care under the
30 legal responsibility of the department or a federally recognized tribe
31 located within the state;

32 (4) Persons who are aged, blind, or disabled who: (a) Receive only
33 a state supplement, or (b) would not be eligible for cash assistance if
34 they were not institutionalized;

35 (5) Categorically eligible individuals who meet the income and
36 resource requirements of the cash assistance programs;

1 (6) Individuals who are enrolled in managed health care systems,
2 who have otherwise lost eligibility for medical assistance, but who
3 have not completed a current six-month enrollment in a managed health
4 care system, and who are eligible for federal financial participation
5 under Title XIX of the social security act;

6 (7) Children and pregnant women allowed by federal statute for whom
7 funding is appropriated;

8 (8) Working individuals with disabilities authorized under section
9 1902(a)(10)(A)(ii) of the social security act for whom funding is
10 appropriated;

11 (9) Other individuals eligible for medical services under RCW
12 74.09.035 and 74.09.700 for whom federal financial participation is
13 available under Title XIX of the social security act;

14 (10) Persons allowed by section 1931 of the social security act for
15 whom funding is appropriated; and

16 (11) Women who: (a) Are under sixty-five years of age; (b) have
17 been screened for breast and cervical cancer under the national breast
18 and cervical cancer early detection program administered by the
19 department of health or tribal entity and have been identified as
20 needing treatment for breast or cervical cancer; and (c) are not
21 otherwise covered by health insurance. Medical assistance provided
22 under this subsection is limited to the period during which the woman
23 requires treatment for breast or cervical cancer, and is subject to any
24 conditions or limitations specified in the omnibus appropriations act.

25 **Sec. 26.** RCW 74.09.515 and 2007 c 359 s 8 are each amended to read
26 as follows:

27 (1) The ((~~department~~)) authority shall adopt rules and policies
28 providing that when youth who were enrolled in a medical assistance
29 program immediately prior to confinement are released from confinement,
30 their medical assistance coverage will be fully reinstated on the day
31 of their release, subject to any expedited review of their continued
32 eligibility for medical assistance coverage that is required under
33 federal or state law.

34 (2) The ((~~department~~)) authority, in collaboration with the
35 department, county juvenile court administrators, and regional support
36 networks, shall establish procedures for coordination between
37 department field offices, juvenile rehabilitation administration

1 institutions, and county juvenile courts that result in prompt
2 reinstatement of eligibility and speedy eligibility determinations for
3 youth who are likely to be eligible for medical assistance services
4 upon release from confinement. Procedures developed under this
5 subsection must address:

6 (a) Mechanisms for receiving medical assistance services'
7 applications on behalf of confined youth in anticipation of their
8 release from confinement;

9 (b) Expeditious review of applications filed by or on behalf of
10 confined youth and, to the extent practicable, completion of the review
11 before the youth is released; and

12 (c) Mechanisms for providing medical assistance services' identity
13 cards to youth eligible for medical assistance services immediately
14 upon their release from confinement.

15 (3) For purposes of this section, "confined" or "confinement" means
16 detained in a facility operated by or under contract with the
17 department of social and health services, juvenile rehabilitation
18 administration, or detained in a juvenile detention facility operated
19 under chapter 13.04 RCW.

20 (4) The (~~department~~) authority shall adopt standardized statewide
21 screening and application practices and forms designed to facilitate
22 the application of a confined youth who is likely to be eligible for a
23 medical assistance program.

24 **Sec. 27.** RCW 74.09.520 and 2007 c 3 s 1 are each amended to read
25 as follows:

26 (1) The term "medical assistance" may include the following care
27 and services subject to rules adopted by the authority or department:

- 28 (a) Inpatient hospital services; (b) outpatient hospital services; (c)
- 29 other laboratory and X- ray services; (d) nursing facility services;
- 30 (e) physicians' services, which shall include prescribed medication and
- 31 instruction on birth control devices; (f) medical care, or any other
- 32 type of remedial care as may be established by the secretary or
- 33 director; (g) home health care services; (h) private duty nursing
- 34 services; (i) dental services; (j) physical and occupational therapy
- 35 and related services; (k) prescribed drugs, dentures, and prosthetic
- 36 devices; and eyeglasses prescribed by a physician skilled in diseases
- 37 of the eye or by an optometrist, whichever the individual may select;

1 (l) personal care services, as provided in this section; (m) hospice
2 services; (n) other diagnostic, screening, preventive, and
3 rehabilitative services; and (o) like services when furnished to a
4 child by a school district in a manner consistent with the requirements
5 of this chapter. For the purposes of this section, neither the
6 authority nor the department may ~~((not))~~ cut off any prescription
7 medications, oxygen supplies, respiratory services, or other life-
8 sustaining medical services or supplies.

9 "Medical assistance," notwithstanding any other provision of law,
10 shall not include routine foot care, or dental services delivered by
11 any health care provider, that are not mandated by Title XIX of the
12 social security act unless there is a specific appropriation for these
13 services.

14 ~~((The department shall amend the state plan for medical~~
15 ~~assistance under Title XIX of the federal social security act to~~
16 ~~include personal care services, as defined in 42 C.F.R. 440.170(f), in~~
17 ~~the categorically needy program.~~

18 ~~(3))~~ The department shall adopt, amend, or rescind such
19 administrative rules as are necessary to ensure that Title XIX personal
20 care services are provided to eligible persons in conformance with
21 federal regulations.

22 (a) These administrative rules shall include financial eligibility
23 indexed according to the requirements of the social security act
24 providing for medicaid eligibility.

25 (b) The rules shall require clients be assessed as having a medical
26 condition requiring assistance with personal care tasks. Plans of care
27 for clients requiring health-related consultation for assessment and
28 service planning may be reviewed by a nurse.

29 (c) The department shall determine by rule which clients have a
30 health-related assessment or service planning need requiring registered
31 nurse consultation or review. This definition may include clients that
32 meet indicators or protocols for review, consultation, or visit.

33 ~~((4))~~ (3) The department shall design and implement a means to
34 assess the level of functional disability of persons eligible for
35 personal care services under this section. The personal care services
36 benefit shall be provided to the extent funding is available according
37 to the assessed level of functional disability. Any reductions in
38 services made necessary for funding reasons should be accomplished in

1 a manner that assures that priority for maintaining services is given
2 to persons with the greatest need as determined by the assessment of
3 functional disability.

4 ~~((+5))~~ (4) Effective July 1, 1989, the ~~((department))~~ authority
5 shall offer hospice services in accordance with available funds.

6 ~~((+6))~~ (5) For Title XIX personal care services administered by
7 aging and disability services administration of the department, the
8 department shall contract with area agencies on aging:

9 (a) To provide case management services to individuals receiving
10 Title XIX personal care services in their own home; and

11 (b) To reassess and reauthorize Title XIX personal care services or
12 other home and community services as defined in RCW 74.39A.009 in home
13 or in other settings for individuals consistent with the intent of this
14 section:

15 (i) Who have been initially authorized by the department to receive
16 Title XIX personal care services or other home and community services
17 as defined in RCW 74.39A.009; and

18 (ii) Who, at the time of reassessment and reauthorization, are
19 receiving such services in their own home.

20 ~~((+7))~~ (6) In the event that an area agency on aging is unwilling
21 to enter into or satisfactorily fulfill a contract or an individual
22 consumer's need for case management services will be met through an
23 alternative delivery system, the department is authorized to:

24 (a) Obtain the services through competitive bid; and

25 (b) Provide the services directly until a qualified contractor can
26 be found.

27 ~~((+8))~~ (7) Subject to the availability of amounts appropriated for
28 this specific purpose, ~~((effective July 1, 2007,))~~ the ~~((department))~~
29 authority may offer medicare part D prescription drug copayment
30 coverage to full benefit dual eligible beneficiaries.

31 **Sec. 28.** RCW 74.09.521 and 2009 c 388 s 1 are each amended to read
32 as follows:

33 (1) To the extent that funds are specifically appropriated for this
34 purpose the ~~((department))~~ authority shall revise its medicaid healthy
35 options managed care and fee-for-service program standards under
36 medicaid, Title XIX of the federal social security act to improve
37 access to mental health services for children who do not meet the

1 regional support network access to care standards. (~~Effective July 1,~~
2 ~~2008, the~~) The program standards shall be revised to allow outpatient
3 therapy services to be provided by licensed mental health
4 professionals, as defined in RCW 71.34.020, or by a mental health
5 professional regulated under Title 18 RCW who is under the direct
6 supervision of a licensed mental health professional, and up to twenty
7 outpatient therapy hours per calendar year, including family therapy
8 visits integral to a child's treatment. This section shall be
9 administered in a manner consistent with federal early and periodic
10 screening, diagnosis, and treatment requirements related to the receipt
11 of medically necessary services when a child's need for such services
12 is identified through developmental screening.

13 (2) The (~~department~~) authority and the children's mental health
14 evidence-based practice institute established in RCW 71.24.061 shall
15 collaborate to encourage and develop incentives for the use of
16 prescribing practices and evidence-based and research-based treatment
17 practices developed under RCW 74.09.490 by mental health professionals
18 serving children under this section.

19 **Sec. 29.** RCW 74.09.522 and 1997 c 59 s 15 and 1997 c 34 s 1 are
20 each reenacted and amended to read as follows:

21 (1) For the purposes of this section, "managed health care system"
22 means any health care organization, including health care providers,
23 insurers, health care service contractors, health maintenance
24 organizations, health insuring organizations, or any combination
25 thereof, that provides directly or by contract health care services
26 covered under RCW 74.09.520 and rendered by licensed providers, on a
27 prepaid capitated basis and that meets the requirements of section
28 1903(m)(1)(A) of Title XIX of the federal social security act or
29 federal demonstration waivers granted under section 1115(a) of Title XI
30 of the federal social security act.

31 (2) The (~~department of social and health services~~) authority
32 shall enter into agreements with managed health care systems to provide
33 health care services to recipients of temporary assistance for needy
34 families under the following conditions:

35 (a) Agreements shall be made for at least thirty thousand
36 recipients statewide;

1 (b) Agreements in at least one county shall include enrollment of
2 all recipients of temporary assistance for needy families;

3 (c) To the extent that this provision is consistent with section
4 1903(m) of Title XIX of the federal social security act or federal
5 demonstration waivers granted under section 1115(a) of Title XI of the
6 federal social security act, recipients shall have a choice of systems
7 in which to enroll and shall have the right to terminate their
8 enrollment in a system: PROVIDED, That the ((department)) authority
9 may limit recipient termination of enrollment without cause to the
10 first month of a period of enrollment, which period shall not exceed
11 twelve months: AND PROVIDED FURTHER, That the ((department)) authority
12 shall not restrict a recipient's right to terminate enrollment in a
13 system for good cause as established by the ((department)) authority by
14 rule;

15 (d) To the extent that this provision is consistent with section
16 1903(m) of Title XIX of the federal social security act, participating
17 managed health care systems shall not enroll a disproportionate number
18 of medical assistance recipients within the total numbers of persons
19 served by the managed health care systems, except as authorized by the
20 ((department)) authority under federal demonstration waivers granted
21 under section 1115(a) of Title XI of the federal social security act;

22 (e) In negotiating with managed health care systems the
23 ((department)) authority shall adopt a uniform procedure to negotiate
24 and enter into contractual arrangements, including standards regarding
25 the quality of services to be provided; and financial integrity of the
26 responding system;

27 (f) The ((department)) authority shall seek waivers from federal
28 requirements as necessary to implement this chapter;

29 (g) The ((department)) authority shall, wherever possible, enter
30 into prepaid capitation contracts that include inpatient care.
31 However, if this is not possible or feasible, the ((department))
32 authority may enter into prepaid capitation contracts that do not
33 include inpatient care;

34 (h) The ((department)) authority shall define those circumstances
35 under which a managed health care system is responsible for out-of-plan
36 services and assure that recipients shall not be charged for such
37 services; and

1 (i) Nothing in this section prevents the ((department)) authority
2 from entering into similar agreements for other groups of people
3 eligible to receive services under this chapter.

4 (3) The ((department)) authority shall ensure that publicly
5 supported community health centers and providers in rural areas, who
6 show serious intent and apparent capability to participate as managed
7 health care systems are seriously considered as contractors. The
8 ((department)) authority shall coordinate its managed care activities
9 with activities under chapter 70.47 RCW.

10 (4) The ((department)) authority shall work jointly with the state
11 of Oregon and other states in this geographical region in order to
12 develop recommendations to be presented to the appropriate federal
13 agencies and the United States congress for improving health care of
14 the poor, while controlling related costs.

15 (5) The legislature finds that competition in the managed health
16 care marketplace is enhanced, in the long term, by the existence of a
17 large number of managed health care system options for medicaid
18 clients. In a managed care delivery system, whose goal is to focus on
19 prevention, primary care, and improved enrollee health status,
20 continuity in care relationships is of substantial importance, and
21 disruption to clients and health care providers should be minimized.
22 To help ensure these goals are met, the following principles shall
23 guide the ((department)) authority in its healthy options managed
24 health care purchasing efforts:

25 (a) All managed health care systems should have an opportunity to
26 contract with the ((department)) authority to the extent that minimum
27 contracting requirements defined by the ((department)) authority are
28 met, at payment rates that enable the ((department)) authority to
29 operate as far below appropriated spending levels as possible,
30 consistent with the principles established in this section.

31 (b) Managed health care systems should compete for the award of
32 contracts and assignment of medicaid beneficiaries who do not
33 voluntarily select a contracting system, based upon:

34 (i) Demonstrated commitment to or experience in serving low-income
35 populations;

36 (ii) Quality of services provided to enrollees;

37 (iii) Accessibility, including appropriate utilization, of services
38 offered to enrollees;

1 (iv) Demonstrated capability to perform contracted services,
2 including ability to supply an adequate provider network;

3 (v) Payment rates; and

4 (vi) The ability to meet other specifically defined contract
5 requirements established by the ((department)) authority, including
6 consideration of past and current performance and participation in
7 other state or federal health programs as a contractor.

8 (c) Consideration should be given to using multiple year
9 contracting periods.

10 (d) Quality, accessibility, and demonstrated commitment to serving
11 low-income populations shall be given significant weight in the
12 contracting, evaluation, and assignment process.

13 (e) All contractors that are regulated health carriers must meet
14 state minimum net worth requirements as defined in applicable state
15 laws. The ((department)) authority shall adopt rules establishing the
16 minimum net worth requirements for contractors that are not regulated
17 health carriers. This subsection does not limit the authority of the
18 ((department)) Washington state health care authority to take action
19 under a contract upon finding that a contractor's financial status
20 seriously jeopardizes the contractor's ability to meet its contract
21 obligations.

22 (f) Procedures for resolution of disputes between the
23 ((department)) authority and contract bidders or the ((department))
24 authority and contracting carriers related to the award of, or failure
25 to award, a managed care contract must be clearly set out in the
26 procurement document. ~~((In designing such procedures, the department
27 shall give strong consideration to the negotiation and dispute
28 resolution processes used by the Washington state health care authority
29 in its managed health care contracting activities.))~~

30 (6) The ((department)) authority may apply the principles set forth
31 in subsection (5) of this section to its managed health care purchasing
32 efforts on behalf of clients receiving supplemental security income
33 benefits to the extent appropriate.

34 **Sec. 30.** RCW 74.09.5222 and 2009 c 545 s 4 are each amended to
35 read as follows:

36 (1) The ((department)) authority shall submit a section 1115
37 demonstration waiver request to the federal department of health and

1 human services to expand and revise the medical assistance program as
2 codified in Title XIX of the federal social security act. The waiver
3 request should be designed to ensure the broadest federal financial
4 participation under Title XIX and XXI of the federal social security
5 act. To the extent permitted under federal law, the waiver request
6 should include the following components:

7 (a) Establishment of a single eligibility standard for low-income
8 persons, including expansion of categorical eligibility to include
9 childless adults. The ((department)) authority shall request that the
10 single eligibility standard be phased in such that incremental steps
11 are taken to cover additional low-income parents and individuals over
12 time, with the goal of offering coverage to persons with household
13 income at or below two hundred percent of the federal poverty level;

14 (b) Establishment of a single seamless application and eligibility
15 determination system for all state low-income medical programs included
16 in the waiver. Applications may be electronic and may include an
17 electronic signature for verification and authentication. Eligibility
18 determinations should maximize federal financing where possible;

19 (c) The delivery of all low-income coverage programs as a single
20 program, with a common core benefit package that may be similar to the
21 basic health benefit package or an alternative benefit package approved
22 by the secretary of the federal department of health and human
23 services, including the option of supplemental coverage for select
24 categorical groups, such as children, and individuals who are aged,
25 blind, and disabled;

26 (d) A program design to include creative and innovative approaches
27 such as: Coverage for preventive services with incentives to use
28 appropriate preventive care; enhanced medical home reimbursement and
29 bundled payment methodologies; cost-sharing options; use of care
30 management and care coordination programs to improve coordination of
31 medical and behavioral health services; application of an innovative
32 predictive risk model to better target care management services; and
33 mandatory enrollment in managed care, as may be necessary;

34 (e) The ability to impose enrollment limits or benefit design
35 changes for eligibility groups that were not eligible under the Title
36 XIX state plan in effect on the date of submission of the waiver
37 application;

1 (f) A premium assistance program whereby employers can participate
2 in coverage options for employees and dependents of employees otherwise
3 eligible under the waiver. The waiver should make every effort to
4 maximize enrollment in employer-sponsored health insurance when it is
5 cost-effective for the state to do so, and the purchase is consistent
6 with the requirements of Titles XIX and XXI of the federal social
7 security act. To the extent allowable under federal law, the
8 ((department)) authority shall require enrollment in available
9 employer-sponsored coverage as a condition of eligibility for coverage
10 under the waiver; and

11 (g) The ability to share savings that might accrue to the federal
12 medicare program, Title XVIII of the federal social security act, from
13 improved care management for persons who are eligible for both medicare
14 and medicaid. Through the waiver application process, the
15 ((department)) authority shall determine whether the state could serve,
16 directly or by contract, as a medicare special needs plan for persons
17 eligible for both medicare and medicaid.

18 (2) The ((department)) authority shall hold ongoing stakeholder
19 discussions as it is developing the waiver request, and provide
20 opportunities for public review and comment as the request is being
21 developed.

22 (3) The ((~~department and the health care~~)) authority shall identify
23 statutory changes that may be necessary to ensure successful and timely
24 implementation of the waiver request as submitted to the federal
25 department of health and human services as the apple health program for
26 adults.

27 (4) The legislature must authorize implementation of any waiver
28 approved by the federal department of health and human services under
29 this section.

30 **Sec. 31.** RCW 74.09.5225 and 2005 c 383 s 1 are each amended to
31 read as follows:

32 (1) Payments for recipients eligible for medical assistance
33 programs under this chapter for services provided by hospitals,
34 regardless of the beneficiary's managed care enrollment status, shall
35 be made based on allowable costs incurred during the year, when
36 services are provided by a rural hospital certified by the centers for
37 medicare and medicaid services as a critical access hospital. Any

1 additional payments made by the (~~medical assistance administration~~)
2 authority for the healthy options program shall be no more than the
3 additional amounts per service paid under this section for other
4 medical assistance programs.

5 (2) Beginning on July 24, 2005, a moratorium shall be placed on
6 additional hospital participation in critical access hospital payments
7 under this section. However, rural hospitals that applied for
8 certification to the centers for medicare and medicaid services prior
9 to January 1, 2005, but have not yet completed the process or have not
10 yet been approved for certification, remain eligible for medical
11 assistance payments under this section.

12 **Sec. 32.** RCW 74.09.530 and 2007 c 315 s 2 are each amended to read
13 as follows:

14 (1)(a) The authority is designated as the single state agency for
15 purposes of Title XIX of the federal social security act.

16 (b) The amount and nature of medical assistance and the
17 determination of eligibility of recipients for medical assistance shall
18 be the responsibility of the (~~department of social and health~~
19 ~~services~~) authority.

20 (c) The (~~department~~) authority shall establish reasonable
21 standards of assistance and resource and income exemptions which shall
22 be consistent with the provisions of the social security act and (~~with~~
23 ~~the~~) federal regulations (~~of the secretary of health, education and~~
24 ~~welfare~~) for determining eligibility of individuals for medical
25 assistance and the extent of such assistance to the extent that funds
26 are available from the state and federal government. The
27 (~~department~~) authority shall not consider resources in determining
28 continuing eligibility for recipients eligible under section 1931 of
29 the social security act.

30 (d) The authority is authorized to collaborate with other state or
31 local agencies and nonprofit organizations in carrying out its duties
32 under this chapter and, to the extent appropriate, may enter into
33 agreements with such other entities.

34 (2) Individuals eligible for medical assistance under RCW
35 74.09.510(3) shall be transitioned into coverage under that subsection
36 immediately upon their termination from coverage under RCW
37 74.09.510(2)(a). The (~~department~~) authority shall use income

1 eligibility standards and eligibility determinations applicable to
2 children placed in foster care. The (~~department, in consultation with~~
3 ~~the health care~~) authority(~~(τ)~~) shall provide information regarding
4 basic health plan enrollment and shall offer assistance with the
5 application and enrollment process to individuals covered under RCW
6 74.09.510(3) who are approaching their twenty-first birthday.

7 **Sec. 33.** RCW 74.09.540 and 2001 2nd sp.s. c 15 s 2 are each
8 amended to read as follows:

9 (1) It is the intent of the legislature to remove barriers to
10 employment for individuals with disabilities by providing medical
11 assistance to (~~the~~) working (~~disabled~~) individuals with
12 disabilities through a buy-in program in accordance with section
13 1902(a)(10)(A)(ii) of the social security act and eligibility and cost-
14 sharing requirements established by the (~~department~~) authority.

15 (2) The (~~department~~) authority shall establish income, resource,
16 and cost-sharing requirements for the buy-in program in accordance with
17 federal law and any conditions or limitations specified in the omnibus
18 appropriations act. The (~~department~~) authority shall establish and
19 modify eligibility and cost-sharing requirements in order to administer
20 the program within available funds. The (~~department~~) authority shall
21 make every effort to coordinate benefits with employer-sponsored
22 coverage available to the working (~~disabled~~) individuals with
23 disabilities receiving benefits under this chapter.

24 **Sec. 34.** RCW 74.09.555 and 2010 1st sp.s. c 8 s 30 are each
25 amended to read as follows:

26 (1) The (~~department~~) authority shall adopt rules and policies
27 providing that when persons with a mental disorder, who were enrolled
28 in medical assistance immediately prior to confinement, are released
29 from confinement, their medical assistance coverage will be fully
30 reinstated on the day of their release, subject to any expedited review
31 of their continued eligibility for medical assistance coverage that is
32 required under federal or state law.

33 (2) The (~~department~~) authority, in collaboration with the
34 Washington association of sheriffs and police chiefs, the department of
35 corrections, and the regional support networks, shall establish
36 procedures for coordination between the authority and department field

1 offices, institutions for mental disease, and correctional
2 institutions, as defined in RCW 9.94.049, that result in prompt
3 reinstatement of eligibility and speedy eligibility determinations for
4 persons who are likely to be eligible for medical assistance services
5 upon release from confinement. Procedures developed under this
6 subsection must address:

7 (a) Mechanisms for receiving medical assistance services
8 applications on behalf of confined persons in anticipation of their
9 release from confinement;

10 (b) Expeditious review of applications filed by or on behalf of
11 confined persons and, to the extent practicable, completion of the
12 review before the person is released;

13 (c) Mechanisms for providing medical assistance services identity
14 cards to persons eligible for medical assistance services immediately
15 upon their release from confinement; and

16 (d) Coordination with the federal social security administration,
17 through interagency agreements or otherwise, to expedite processing of
18 applications for federal supplemental security income or social
19 security disability benefits, including federal acceptance of
20 applications on behalf of confined persons.

21 (3) Where medical or psychiatric examinations during a person's
22 confinement indicate that the person is disabled, the correctional
23 institution or institution for mental diseases shall provide the
24 ((department)) authority with that information for purposes of making
25 medical assistance eligibility and enrollment determinations prior to
26 the person's release from confinement. The ((department)) authority
27 shall, to the maximum extent permitted by federal law, use the
28 examination in making its determination whether the person is disabled
29 and eligible for medical assistance.

30 (4) For purposes of this section, "confined" or "confinement" means
31 incarcerated in a correctional institution, as defined in RCW 9.94.049,
32 or admitted to an institute for mental disease, as defined in 42 C.F.R.
33 part 435, Sec. 1009 on July 24, 2005.

34 (5) For purposes of this section, "likely to be eligible" means
35 that a person:

36 (a) Was enrolled in medicaid or supplemental security income or the
37 disability lifeline program immediately before he or she was confined

1 and his or her enrollment was terminated during his or her confinement;
2 or

3 (b) Was enrolled in medicaid or supplemental security income or the
4 disability lifeline program at any time during the five years before
5 his or her confinement, and medical or psychiatric examinations during
6 the person's confinement indicate that the person continues to be
7 disabled and the disability is likely to last at least twelve months
8 following release.

9 (6) The economic services administration within the department
10 shall adopt standardized statewide screening and application practices
11 and forms designed to facilitate the application of a confined person
12 who is likely to be eligible for medicaid.

13 **Sec. 35.** RCW 74.09.565 and 1989 c 87 s 4 are each amended to read
14 as follows:

15 (1) An agreement between spouses transferring or assigning rights
16 to future income from one spouse to the other shall be invalid for
17 purposes of determining eligibility for medical assistance or the
18 limited casualty program for the medically needy, but this subsection
19 does not affect agreements between spouses transferring or assigning
20 resources, and income produced by transferred or assigned resources
21 shall continue to be recognized as the separate income of the
22 transferee.

23 (2) In determining eligibility for medical assistance or the
24 limited casualty program for the medically needy for a married person
25 in need of institutional care, or care under home and community-based
26 waivers as defined in Title XIX of the social security act, if the
27 community income received in the name of the nonapplicant spouse
28 exceeds the community income received in the name of the applicant
29 spouse, the applicant's interest in that excess shall be considered
30 unavailable to the applicant.

31 (3) The department or authority, as appropriate, shall adopt rules
32 consistent with the provisions of section 1924 of the social security
33 act entitled "Treatment of Income and Resources for Certain
34 Institutionalized Spouses," in determining the allocation of income
35 between an institutionalized and community spouse.

36 (4) The department or authority, as appropriate, shall establish
37 the monthly maintenance needs allowance for the community spouse up to

1 the maximum amount allowed by state appropriation or within available
2 funds and permitted in section 1924 of the social security act. The
3 total monthly needs allowance shall not exceed one thousand five
4 hundred dollars, subject to adjustment provided in section 1924 of the
5 social security act.

6 **Sec. 36.** RCW 74.09.575 and 2003 1st sp.s. c 28 s 1 are each
7 amended to read as follows:

8 (1) The department or authority, as appropriate, shall promulgate
9 rules consistent with the treatment of resources provisions of section
10 1924 of the social security act (~~entitled "Treatment of Income and~~
11 ~~Resources for Certain Institutionalized Spouses,"~~) in determining the
12 allocation of resources between the institutionalized and community
13 spouse.

14 (2) In the interest of supporting the community spouse the
15 department or authority, as appropriate, shall allow the maximum
16 resource allowance amount permissible under the social security act for
17 the community spouse for persons institutionalized before August 1,
18 2003.

19 (3) For persons institutionalized on or after August 1, 2003, the
20 department or authority, as appropriate, in the interest of supporting
21 the community spouse, shall allow up to a maximum of forty thousand
22 dollars in resources for the community spouse. For the fiscal biennium
23 beginning July 1, 2005, and each fiscal biennium thereafter, the
24 maximum resource allowance amount for the community spouse shall be
25 adjusted for economic trends and conditions by increasing the amount
26 allowable by the consumer price index as published by the federal
27 bureau of labor statistics. However, in no case shall the amount
28 allowable exceed the maximum resource allowance permissible under the
29 social security act.

30 **Sec. 37.** RCW 74.09.585 and 1995 1st sp.s. c 18 s 81 are each
31 amended to read as follows:

32 (1) The department or authority, as appropriate, shall establish
33 standards consistent with section 1917 of the social security act in
34 determining the period of ineligibility for medical assistance due to
35 the transfer of resources.

1 (2) There shall be no penalty imposed for the transfer of assets
2 that are excluded in a determination of the individual's eligibility
3 for medicaid to the extent such assets are protected by the long-term
4 care insurance policy or contract pursuant to chapter 48.85 RCW.

5 (3) The department or authority, as appropriate, may waive a period
6 of ineligibility if the department or authority determines that denial
7 of eligibility would work an undue hardship.

8 **Sec. 38.** RCW 74.09.595 and 1989 c 87 s 8 are each amended to read
9 as follows:

10 The department or authority, as appropriate, shall in compliance
11 with section 1924 of the social security act adopt procedures which
12 provide due process for institutionalized or community spouses who
13 request a fair hearing as to the valuation of resources, the amount of
14 the community spouse resource allowance, or the monthly maintenance
15 needs allowance.

16 **Sec. 39.** RCW 74.09.655 and 2008 c 245 s 1 are each amended to read
17 as follows:

18 The ((department)) authority shall provide coverage under this
19 chapter for smoking cessation counseling services, as well as
20 prescription and nonprescription agents when used to promote smoking
21 cessation, so long as such agents otherwise meet the definition of
22 "covered outpatient drug" in 42 U.S.C. Sec. 1396r-8(k). However, the
23 ((department)) authority may initiate an individualized inquiry and
24 determine and implement by rule appropriate coverage limitations as may
25 be required to encourage the use of effective, evidence-based services
26 and prescription and nonprescription agents. The ((department))
27 authority shall track per-capita expenditures for a cohort of clients
28 that receive smoking cessation benefits, and submit a cost-benefit
29 analysis to the legislature on or before January 1, 2012.

30 **Sec. 40.** RCW 74.09.658 and 2009 c 326 s 1 are each amended to read
31 as follows:

32 (1) The home health program shall require registered nurse
33 oversight and intervention, as appropriate. In-person contact between
34 a home health care registered nurse and a patient is not required under
35 the state's medical assistance program for home health services that

1 are: (a) Delivered with the assistance of telemedicine and (b)
2 otherwise eligible for reimbursement as a medically necessary skilled
3 home health nursing visit under the program.

4 (2) The department or authority, as appropriate, in consultation
5 with home health care service providers shall develop reimbursement
6 rules and, in rule, define the requirements that must be met for a
7 reimbursable skilled nursing visit when services are rendered without
8 a face-to-face visit and are assisted by telemedicine.

9 (3)(a) The department or authority, as appropriate, shall establish
10 the reimbursement rate for skilled home health nursing services
11 delivered with the assistance of telemedicine that meet the
12 requirements of a reimbursable visit as defined by the department or
13 authority, as appropriate.

14 (b) Reimbursement is not provided for purchase or lease of
15 telemedicine equipment.

16 (4) Any home health agency licensed under chapter 70.127 RCW and
17 eligible for reimbursement under the medical programs authorized under
18 this chapter may be reimbursed for services under this section if the
19 service meets the requirements for a reimbursable skilled nursing visit
20 (~~(as defined by the department)~~).

21 (5) Nothing in this section shall be construed to alter the scope
22 of practice of any home health care services provider or authorizes the
23 delivery of home health care services in a setting or manner not
24 otherwise authorized by law.

25 (6) The use of telemedicine is not intended to replace registered
26 nurse health care (~~(visit[s])~~) visits when necessary.

27 (7) For the purposes of this section, "telemedicine" means the use
28 of telemonitoring to enhance the delivery of certain home health
29 medical services through:

30 (a) The provision of certain education related to health care
31 services using audio, video, or data communication instead of a face-
32 to-face visit; or

33 (b) The collection of clinical data and the transmission of such
34 data between a patient at a distant location and the home health
35 provider through electronic processing technologies. Objective
36 clinical data that may be transmitted includes, but is not limited to,
37 weight, blood pressure, pulse, respirations, blood glucose, and pulse
38 oximetry.

1 **Sec. 41.** RCW 74.09.659 and 2009 c 545 s 5 are each amended to read
2 as follows:

3 (1) The ~~((department))~~ authority shall continue to submit
4 applications for the family planning waiver program.

5 (2) The ~~((department))~~ authority shall submit a request to the
6 federal department of health and human services to amend the current
7 family planning waiver program as follows:

8 (a) Provide coverage for sexually transmitted disease testing and
9 treatment;

10 (b) Return to the eligibility standards used in 2005 including, but
11 not limited to, citizenship determination based on declaration or
12 matching with federal social security databases, insurance eligibility
13 standards comparable to 2005, and confidential service availability for
14 minors and survivors of domestic and sexual violence; and

15 (c) Within available funds, increase income eligibility to two
16 hundred fifty percent of the federal poverty level, to correspond with
17 income eligibility for publicly funded maternity care services.

18 **Sec. 42.** RCW 74.09.700 and 2010 c 94 s 25 are each amended to read
19 as follows:

20 (1) To the extent of available funds and subject to any conditions
21 placed on appropriations made for this purpose, medical care may be
22 provided under the limited casualty program to persons not
23 ~~((otherwise))~~ eligible for medical assistance or medical care services
24 who are medically needy as defined in the social security Title XIX
25 state plan and medical indigents in accordance with eligibility
26 requirements established by the ~~((department))~~ authority. The
27 eligibility requirements may include minimum levels of incurred medical
28 expenses. This includes residents of nursing facilities, residents of
29 intermediate care facilities for persons with intellectual
30 disabilities, and individuals who are otherwise eligible for section
31 1915(c) of the federal social security act home and community-based
32 waiver services, administered by the department ~~((of social and health
33 services—aging—and—adult—services—administration,))~~ who are aged,
34 blind, or disabled as defined in Title XVI of the federal social
35 security act and whose income exceeds three hundred percent of the
36 federal supplement security income benefit level.

1 (2) Determination of the amount, scope, and duration of medical
2 coverage under the limited casualty program shall be the responsibility
3 of the ((department)) authority, subject to the following:

4 (a) Only the following services may be covered:

5 (i) For persons who are medically needy as defined in the social
6 security Title XIX state plan: Inpatient and outpatient hospital
7 services, and home and community-based waiver services;

8 (ii) For persons who are medically needy as defined in the social
9 security Title XIX state plan, and for persons who are medical
10 indigents under the eligibility requirements established by the
11 ((department)) authority: Rural health clinic services; physicians'
12 and clinic services; prescribed drugs, dentures, prosthetic devices,
13 and eyeglasses; nursing facility services; and intermediate care
14 facility services for persons with intellectual disabilities; home
15 health services; hospice services; other laboratory and X-ray services;
16 rehabilitative services, including occupational therapy; medically
17 necessary transportation; and other services for which funds are
18 specifically provided in the omnibus appropriations act;

19 (b) Medical care services provided to the medically indigent and
20 received no more than seven days prior to the date of application shall
21 be retroactively certified and approved for payment on behalf of a
22 person who was otherwise eligible at the time the medical services were
23 furnished: PROVIDED, That eligible persons who fail to apply within
24 the seven-day time period for medical reasons or other good cause may
25 be retroactively certified and approved for payment.

26 (3) The ((department)) authority shall establish standards of
27 assistance and resource and income exemptions. All nonexempt income
28 and resources of limited casualty program recipients shall be applied
29 against the cost of their medical care services.

30 **Sec. 43.** RCW 74.09.710 and 2007 c 259 s 4 are each amended to read
31 as follows:

32 (1) The ((~~department of social and health services~~)) authority, in
33 collaboration with the department of health and the department of
34 social and health services, shall:

35 (a) Design and implement medical homes for its aged, blind, and
36 disabled clients in conjunction with chronic care management programs
37 to improve health outcomes, access, and cost-effectiveness. Programs

1 must be evidence based, facilitating the use of information technology
2 to improve quality of care, must acknowledge the role of primary care
3 providers and include financial and other supports to enable these
4 providers to effectively carry out their role in chronic care
5 management, and must improve coordination of primary, acute, and long-
6 term care for those clients with multiple chronic conditions. The
7 ((department)) authority shall consider expansion of existing medical
8 home and chronic care management programs and build on the Washington
9 state collaborative initiative. The ((department)) authority shall use
10 best practices in identifying those clients best served under a chronic
11 care management model using predictive modeling through claims or other
12 health risk information; and

13 (b) Evaluate the effectiveness of current chronic care management
14 efforts in the ((health and recovery services administration and the
15 aging and disability services administration)) authority and the
16 department, comparison to best practices, and recommendations for
17 future efforts and organizational structure to improve chronic care
18 management.

19 (2) For purposes of this section:

20 (a) "Medical home" means a site of care that provides comprehensive
21 preventive and coordinated care centered on the patient needs and
22 assures high quality, accessible, and efficient care.

23 (b) "Chronic care management" means the ((department's))
24 authority's program that provides care management and coordination
25 activities for medical assistance clients determined to be at risk for
26 high medical costs. "Chronic care management" provides education and
27 training and/or coordination that assist program participants in
28 improving self-management skills to improve health outcomes and reduce
29 medical costs by educating clients to better utilize services.

30 **Sec. 44.** RCW 74.09.715 and 2008 c 146 s 13 are each amended to
31 read as follows:

32 Within funds appropriated for this purpose, the ((department))
33 authority shall establish two dental access projects to serve seniors
34 and other adults who are categorically needy blind or disabled. The
35 projects shall provide:

36 (1) Enhanced reimbursement rates for certified dentists for
37 specific procedures, to begin no sooner than July 1, 2009;

- 1 (2) Reimbursement for trained medical providers for preventive oral
- 2 health services, to begin no sooner than July 1, 2009;
- 3 (3) Training, development, and implementation through a partnership
- 4 with the University of Washington school of dentistry;
- 5 (4) Local program coordination including outreach and case
- 6 management; and
- 7 (5) An evaluation that measures the change in utilization rates and
- 8 cost savings.

9 **Sec. 45.** RCW 74.09.720 and 1983 c 194 s 26 are each amended to
10 read as follows:

11 (1) A prevention of blindness program is hereby established in the
12 (~~department of social and health services~~) authority to provide
13 prompt, specialized medical eye care, including assistance with costs
14 when necessary, for conditions in which sight is endangered or sight
15 can be restored or significantly improved. The (~~department of social~~
16 ~~and health services~~) authority shall adopt rules concerning program
17 eligibility, levels of assistance, and the scope of services.

18 (2) The (~~department of social and health services~~) authority
19 shall employ on a part-time basis an ophthalmological and/or an
20 optometrical consultant to provide liaison with participating eye
21 physicians and to review medical recommendations made by an applicant's
22 eye physician to determine whether the proposed services meet program
23 standards.

24 (3) The (~~department of social and health services~~) authority and
25 the department of services for the blind shall formulate a cooperative
26 agreement concerning referral of clients between the two agencies and
27 the coordination of policies and services.

28 **Sec. 46.** RCW 74.09.725 and 2006 c 367 s 8 are each amended to read
29 as follows:

30 (~~The department~~) The authority shall provide coverage for
31 prostate cancer screening under this chapter, provided that the
32 screening is delivered upon the recommendation of the patient's
33 physician, advanced registered nurse practitioner, or physician
34 assistant.

1 **Sec. 47.** RCW 74.09.730 and 2009 c 538 s 1 are each amended to read
2 as follows:

3 In establishing Title XIX payments for inpatient hospital services:

4 (1) To the extent funds are appropriated specifically for this
5 purpose, and subject to any conditions placed on appropriations made
6 for this purpose, the (~~department of social and health services~~)
7 authority shall provide a disproportionate share hospital adjustment
8 considering the following components:

9 (a) A low-income care component based on a hospital's medicaid
10 utilization rate, its low-income utilization rate, its provision of
11 obstetric services, and other factors authorized by federal law;

12 (b) A medical indigency care component based on a hospital's
13 services to persons who are medically indigent; and

14 (c) A state-only component, to be paid from available state funds
15 to hospitals that do not qualify for federal payments under (b) of this
16 subsection, based on a hospital's services to persons who are medically
17 indigent;

18 (2) The payment methodology for disproportionate share hospitals
19 shall be specified by the (~~department~~) authority in regulation.

20 (3) Nothing in this section shall be construed as a right or an
21 entitlement by any hospital to any payment from the authority.

22 **Sec. 48.** RCW 74.09.770 and 1989 1st ex.s. c 10 s 2 are each
23 amended to read as follows:

24 (1) The legislature finds that Washington state and the nation as
25 a whole have a high rate of infant illness and death compared with
26 other industrialized nations. This is especially true for minority and
27 low-income populations. Premature and low weight births have been
28 directly linked to infant illness and death. The availability of
29 adequate maternity care throughout the course of pregnancy has been
30 identified as a major factor in reducing infant illness and death.
31 Further, the investment in preventive health care programs, such as
32 maternity care, contributes to the growth of a healthy and productive
33 society and is a sound approach to health care cost containment. The
34 legislature further finds that access to maternity care for low-income
35 women in the state of Washington has declined significantly in recent
36 years and has reached a crisis level.

1 (2) It is the purpose of this (~~chapter~~[~~subchapter~~]) subchapter
2 to provide, consistent with appropriated funds, maternity care
3 necessary to ensure healthy birth outcomes for low-income families. To
4 this end, a maternity care access system is established based on the
5 following principles:

6 (a) The family is the fundamental unit in our society and should be
7 supported through public policy.

8 (b) Access to maternity care for eligible persons to ensure healthy
9 birth outcomes should be made readily available in an expeditious
10 manner through a single service entry point.

11 (c) Unnecessary barriers to maternity care for eligible persons
12 should be removed.

13 (d) Access to preventive and other health care services should be
14 available for low-income children.

15 (e) Each woman should be encouraged to and assisted in making her
16 own informed decisions about her maternity care.

17 (f) Unnecessary barriers to the provision of maternity care by
18 qualified health professionals should be removed.

19 (g) The system should be sensitive to cultural differences among
20 eligible persons.

21 (h) To the extent possible, decisions about the scope, content, and
22 delivery of services should be made at the local level involving a
23 broad representation of community interests.

24 (i) The maternity care access system should be evaluated at
25 appropriate intervals to determine effectiveness and need for
26 modification.

27 (j) Maternity care services should be delivered in a cost-effective
28 manner.

29 **Sec. 49.** RCW 74.09.790 and 1993 c 407 s 9 are each amended to read
30 as follows:

31 Unless the context clearly requires otherwise, the definitions in
32 this section apply throughout RCW 74.09.760 through 74.09.820 and
33 74.09.510:

34 (1) "At-risk eligible person" means an eligible person determined
35 by the (~~department~~) authority to need special assistance in applying
36 for and obtaining maternity care, including pregnant women who are

1 substance abusers, pregnant and parenting adolescents, pregnant
2 minority women, and other eligible persons who need special assistance
3 in gaining access to the maternity care system.

4 (2) "County authority" means the board of county commissioners,
5 county council, or county executive having the authority to participate
6 in the maternity care access program or its designee. Two or more
7 county authorities may enter into joint agreements to fulfill the
8 requirements of this chapter.

9 (3) "Department" means the department of social and health
10 services.

11 (4) "Eligible person" means a woman in need of maternity care or
12 a child, who is eligible for medical assistance pursuant to this
13 chapter or the prenatal care program administered by the ((department))
14 authority.

15 (5) "Maternity care services" means inpatient and outpatient
16 medical care, case management, and support services necessary during
17 prenatal, delivery, and postpartum periods.

18 (6) "Support services" means, at least, public health nursing
19 assessment and follow-up, health and childbirth education,
20 psychological assessment and counseling, outreach services, nutritional
21 assessment and counseling, needed vitamin and nonprescriptive drugs,
22 transportation, family planning services, and child care. Support
23 services may include alcohol and substance abuse treatment for pregnant
24 women who are addicted or at risk of being addicted to alcohol or drugs
25 to the extent funds are made available for that purpose.

26 (7) "Family planning services" means planning the number of one's
27 children by use of contraceptive techniques.

28 (8) "Authority" means the Washington state health care authority.

29 **Sec. 50.** RCW 74.09.800 and 1993 c 407 s 10 are each amended to
30 read as follows:

31 The ((department)) authority shall, consistent with the state
32 budget act, develop a maternity care access program designed to ensure
33 healthy birth outcomes as follows:

34 (1) Provide maternity care services to low-income pregnant women
35 and health care services to children in poverty to the maximum extent
36 allowable under the medical assistance program, Title XIX of the
37 federal social security act;

1 (2) Provide maternity care services to low-income women who are not
2 eligible to receive such services under the medical assistance program,
3 Title XIX of the federal social security act;

4 (3) (~~By January 1, 1990,~~) Have the following procedures in place
5 to improve access to maternity care services and eligibility
6 determinations for pregnant women applying for maternity care services
7 under the medical assistance program, Title XIX of the federal social
8 security act:

9 (a) Use of a shortened and simplified application form;

10 (b) Outstationing (~~(department)~~) authority staff to make
11 eligibility determinations;

12 (c) Establishing local plans at the county and regional level,
13 coordinated by the (~~(department)~~) authority; and

14 (d) Conducting an interview for the purpose of determining medical
15 assistance eligibility within five working days of the date of an
16 application by a pregnant woman and making an eligibility determination
17 within fifteen working days of the date of application by a pregnant
18 woman;

19 (4) Establish a maternity care case management system that shall
20 assist at-risk eligible persons with obtaining medical assistance
21 benefits and receiving maternity care services, including
22 transportation and child care services;

23 (5) Within available resources, establish appropriate reimbursement
24 levels for maternity care providers;

25 (6) Implement a broad-based public education program that stresses
26 the importance of obtaining maternity care early during pregnancy;

27 (7) Refer persons eligible for maternity care services under the
28 program established by this section to persons, agencies, or
29 organizations with maternity care service practices that primarily
30 emphasize healthy birth outcomes;

31 (8) Provide family planning services including information about
32 the synthetic progestin capsule implant form of contraception, for
33 twelve months immediately following a pregnancy to women who were
34 eligible for medical assistance under the maternity care access program
35 during that pregnancy or who were eligible only for emergency labor and
36 delivery services during that pregnancy; and

37 (9) Within available resources, provide family planning services to

1 women who meet the financial eligibility requirements for services
2 under subsections (1) and (2) of this section.

3 **Sec. 51.** RCW 74.09.810 and 1989 1st ex.s. c 10 s 6 are each
4 amended to read as follows:

5 (1) The ~~((department))~~ authority shall establish an alternative
6 maternity care service delivery system, if it determines that a county
7 or a group of counties is a maternity care distressed area. A
8 maternity care distressed area shall be defined by the ~~((department))~~
9 authority, in rule, as a county or a group of counties where eligible
10 women are unable to obtain adequate maternity care. The ~~((department))~~
11 authority shall include the following factors in its determination:

12 (a) Higher than average percentage of eligible persons in the
13 distressed area who receive late or no prenatal care;

14 (b) Higher than average percentage of eligible persons in the
15 distressed area who go out of the area to receive maternity care;

16 (c) Lower than average percentage of obstetrical care providers in
17 the distressed area who provide care to eligible persons;

18 (d) Higher than average percentage of infants born to eligible
19 persons per obstetrical care provider in the distressed area; and

20 (e) Higher than average percentage of infants that are of low birth
21 weight, five and one-half pounds or two thousand five hundred grams,
22 born to eligible persons in the distressed area.

23 (2) If the ~~((department))~~ authority determines that a maternity
24 care distressed area exists, it shall notify the relevant county
25 authority. The county authority shall, within one hundred twenty days,
26 submit a brief report to the ~~((department))~~ authority recommending
27 remedial action. The report shall be prepared in consultation with the
28 ~~((department—and—its))~~ authority and with the department's local
29 community service offices, the local public health officer, community
30 health clinics, health care providers, hospitals, the business
31 community, labor representatives, and low-income advocates in the
32 distressed area. A county authority may contract with a local
33 nonprofit entity to develop the report. If the county authority is
34 unwilling or unable to develop the report, it shall notify the
35 ~~((department))~~ authority within thirty days, and the ~~((department))~~
36 authority shall develop the report for the distressed area.

1 (3) The ((department)) authority shall review the report and use
2 it, to the extent possible, in developing strategies to improve
3 maternity care access in the distressed area. The ((department))
4 authority may contract with or directly employ qualified maternity care
5 health providers to provide maternity care services, if access to such
6 providers in the distressed area is not possible by other means. In
7 such cases, the ((department)) authority is authorized to pay that
8 portion of the health care providers' malpractice liability insurance
9 that represents the percentage of maternity care provided to eligible
10 persons by that provider through increased medical assistance payments.

11 **Sec. 52.** RCW 74.09.820 and 1989 1st ex.s. c 10 s 7 are each
12 amended to read as follows:

13 To the extent that federal matching funds are available, the
14 ((department)) authority or the department of health ((if one is
15 created)) shall establish, in consultation with the health science
16 programs of the state's colleges and universities, and community health
17 clinics, a loan repayment program that will encourage maternity care
18 providers to practice in medically underserved areas in exchange for
19 repayment of part or all of their health education loans.

20 NEW SECTION. **Sec. 53.** A new section is added to chapter 74.09 RCW
21 to read as follows:

22 (1) The following persons have the right to an adjudicative
23 proceeding:

24 (a) Any applicant or recipient who is aggrieved by a decision of
25 the authority or an authorized agency of the authority; or

26 (b) A current or former recipient who is aggrieved by the
27 authority's claim that he or she owes a debt for overpayment of
28 assistance.

29 (2) For purposes of this section:

30 (a) "Applicant" means any person who has made a request, or on
31 behalf of whom a request has been made to the authority for any medical
32 services program established under chapter 74.09 RCW.

33 (b) "Recipient" means a person who is receiving benefits from the
34 authority for any medical services program established in this chapter.

35 (3) An applicant or recipient has no right to an adjudicative

1 proceeding when the sole basis for the authority's decision is a
2 federal or state law requiring an assistance adjustment for a class of
3 applicants or recipients.

4 (4) An applicant or recipient may file an application for an
5 adjudicative proceeding with either the authority or the department and
6 must do so within ninety calendar days after receiving notice of the
7 aggrieving decision. The authority shall determine which agency is
8 responsible for representing the state of Washington in the hearing, in
9 accordance with agreements entered pursuant to RCW 41.05.021.

10 (5)(a) The adjudicative proceeding is governed by the
11 administrative procedure act, chapter 34.05 RCW, and this subsection.
12 The following requirements shall apply to adjudicative proceedings in
13 which an appellant seeks review of decisions made by more than one
14 agency. When an appellant files a single application for an
15 adjudicative proceeding seeking review of decisions by more than one
16 agency, this review shall be conducted initially in one adjudicative
17 proceeding. The presiding officer may sever the proceeding into
18 multiple proceedings on the motion of any of the parties, when:

19 (i) All parties consent to the severance; or

20 (ii) Either party requests severance without another party's
21 consent, and the presiding officer finds there is good cause for
22 severing the matter and that the proposed severance is not likely to
23 prejudice the rights of an appellant who is a party to any of the
24 severed proceedings.

25 (b) If there are multiple adjudicative proceedings involving common
26 issues or parties where there is one appellant and both the authority
27 and the department are parties, upon motion of any party or upon his or
28 her own motion, the presiding offer may consolidate the proceedings if
29 he or she finds that the consolidation is not likely to prejudice the
30 rights of the appellant who is a party to any of the consolidated
31 proceedings.

32 (c) The adjudicative proceeding shall be conducted at the local
33 community services office or other location in Washington convenient to
34 the applicant or recipient and, upon agreement by the applicant or
35 recipient, may be conducted telephonically.

36 (d) The applicant or recipient, or his or her representative, has
37 the right to inspect his or her file from the authority and, upon

1 request, to receive copies of authority documents relevant to the
2 proceedings free of charge.

3 (e) The applicant or recipient has the right to a copy of the audio
4 recording of the adjudicative proceeding free of charge.

5 (f) If a final adjudicative order is issued in favor of an
6 applicant, medical services benefits must be provided from the date of
7 earliest eligibility, the date of denial of the application for
8 assistance, or forty-five days following the date of application,
9 whichever is soonest. If a final adjudicative order is issued in favor
10 of a recipient, medical services benefits must be provided from the
11 effective date of the authority's decision.

12 (g) The authority is limited to recovering an overpayment arising
13 from assistance being continued pending the adjudicative proceeding to
14 the amount recoverable up to the sixtieth day after the director's
15 receipt of the application for an adjudicative proceeding.

16 (6) If the director requires that a party seek administrative
17 review of an initial order to an adjudicative proceeding governed by
18 this section, in order for the party to exhaust administrative remedies
19 pursuant to RCW 34.05.534, the director shall adopt and implement rules
20 in accordance with this subsection.

21 (a) The director, in consultation with the secretary, shall adopt
22 rules to create a process for parties to seek administrative review of
23 initial orders issued pursuant to RCW 34.05.461 in adjudicative
24 proceedings governed by this subsection when multiple agencies are
25 parties.

26 (b) This process shall seek to minimize any procedural complexities
27 imposed on appellants that result from multiple agencies being parties
28 to the matter, without prejudicing the rights of parties who are public
29 assistance applicants or recipients.

30 (c) Nothing in this subsection shall impose or modify any legal
31 requirement that a party seek administrative review of initial orders
32 in order to exhaust administrative remedies pursuant to RCW 34.05.534.

33 (7) This subsection only applies to an adjudicative proceeding in
34 which the appellant is an applicant for or recipient of medical
35 services programs established under this chapter and the issue is his
36 or her eligibility or ineligibility due to the assignment or transfer
37 of a resource. The burden is on the authority or its authorized agency
38 to prove by a preponderance of the evidence that the person knowingly

1 and willingly assigned or transferred the resource at less than market
2 value for the purpose of qualifying or continuing to qualify for
3 medical services programs established under this chapter. If the
4 prevailing party in the adjudicative proceeding is the applicant or
5 recipient, he or she is entitled to reasonable attorneys' fees.

6 (8) When an applicant or recipient files a petition for judicial
7 review as provided in RCW 34.05.514 of an adjudicative order entered
8 with respect to the medical services program, no filing fee may be
9 collected from the person and no bond may be required on any appeal.
10 In the event that the superior court, the court of appeals, or the
11 supreme court renders a decision in favor of the applicant or
12 recipient, the person is entitled to reasonable attorneys' fees and
13 costs. If a decision of the court is made in favor of an applicant,
14 assistance shall be paid from the date of earliest eligibility, the
15 date of the denial of the application for assistance, or forty-five
16 days following the date of application, whichever is soonest. If a
17 decision of the court is made in favor of a recipient, assistance shall
18 be paid from the effective date of the authority's decision.

19 (9) The provisions of RCW 74.08.080 do not apply to adjudicative
20 proceedings requested or conducted with respect to the medical services
21 program pursuant to this section.

22 (10) The authority shall adopt any rules it deems necessary to
23 implement this section.

24 **Sec. 54.** RCW 41.05.011 and 2009 c 537 s 3 are each amended to read
25 as follows:

26 The definitions in this section apply throughout this chapter
27 unless the context clearly requires otherwise.

28 (1) (~~("Administrator")~~) "Director" means the (~~(administrator)~~)
29 director of the authority.

30 (2) "State purchased health care" or "health care" means medical
31 and health care, pharmaceuticals, and medical equipment purchased with
32 state and federal funds by the department of social and health
33 services, the department of health, the basic health plan, the state
34 health care authority, the department of labor and industries, the
35 department of corrections, the department of veterans affairs, and
36 local school districts.

37 (3) "Authority" means the Washington state health care authority.

1 (4) "Insuring entity" means an insurer as defined in chapter 48.01
2 RCW, a health care service contractor as defined in chapter 48.44 RCW,
3 or a health maintenance organization as defined in chapter 48.46 RCW.

4 (5) "Flexible benefit plan" means a benefit plan that allows
5 employees to choose the level of health care coverage provided and the
6 amount of employee contributions from among a range of choices offered
7 by the authority.

8 (6) "Employee" includes all employees of the state, whether or not
9 covered by civil service; elected and appointed officials of the
10 executive branch of government, including full-time members of boards,
11 commissions, or committees; justices of the supreme court and judges of
12 the court of appeals and the superior courts; and members of the state
13 legislature. Pursuant to contractual agreement with the authority,
14 "employee" may also include: (a) Employees of a county, municipality,
15 or other political subdivision of the state and members of the
16 legislative authority of any county, city, or town who are elected to
17 office after February 20, 1970, if the legislative authority of the
18 county, municipality, or other political subdivision of the state seeks
19 and receives the approval of the authority to provide any of its
20 insurance programs by contract with the authority, as provided in RCW
21 41.04.205 and 41.05.021(1)(g); (b) employees of employee organizations
22 representing state civil service employees, at the option of each such
23 employee organization, and, effective October 1, 1995, employees of
24 employee organizations currently pooled with employees of school
25 districts for the purpose of purchasing insurance benefits, at the
26 option of each such employee organization; (c) employees of a school
27 district if the authority agrees to provide any of the school
28 districts' insurance programs by contract with the authority as
29 provided in RCW 28A.400.350; and (d) employees of a tribal government,
30 if the governing body of the tribal government seeks and receives the
31 approval of the authority to provide any of its insurance programs by
32 contract with the authority, as provided in RCW 41.05.021(1) (f) and
33 (g). "Employee" does not include: Adult family homeowners; unpaid
34 volunteers; patients of state hospitals; inmates; employees of the
35 Washington state convention and trade center as provided in RCW
36 41.05.110; students of institutions of higher education as determined
37 by their institution; and any others not expressly defined as employees
38 under this chapter or by the authority under this chapter.

1 (7) "Seasonal employee" means an employee hired to work during a
2 recurring, annual season with a duration of three months or more, and
3 anticipated to return each season to perform similar work.

4 (8) "Faculty" means an academic employee of an institution of
5 higher education whose workload is not defined by work hours but whose
6 appointment, workload, and duties directly serve the institution's
7 academic mission, as determined under the authority of its enabling
8 statutes, its governing body, and any applicable collective bargaining
9 agreement.

10 (9) "Board" means the public employees' benefits board established
11 under RCW 41.05.055.

12 (10) "Retired or disabled school employee" means:

13 (a) Persons who separated from employment with a school district or
14 educational service district and are receiving a retirement allowance
15 under chapter 41.32 or 41.40 RCW as of September 30, 1993;

16 (b) Persons who separate from employment with a school district or
17 educational service district on or after October 1, 1993, and
18 immediately upon separation receive a retirement allowance under
19 chapter 41.32, 41.35, or 41.40 RCW;

20 (c) Persons who separate from employment with a school district or
21 educational service district due to a total and permanent disability,
22 and are eligible to receive a deferred retirement allowance under
23 chapter 41.32, 41.35, or 41.40 RCW.

24 (11) "Premium payment plan" means a benefit plan whereby state and
25 public employees may pay their share of group health plan premiums with
26 pretax dollars as provided in the salary reduction plan under this
27 chapter pursuant to 26 U.S.C. Sec. 125 or other sections of the
28 internal revenue code.

29 (12) "Salary" means a state employee's monthly salary or wages.

30 (13) "Participant" means an individual who fulfills the eligibility
31 and enrollment requirements under the salary reduction plan.

32 (14) "Plan year" means the time period established by the
33 authority.

34 (15) "Separated employees" means persons who separate from
35 employment with an employer as defined in:

36 (a) RCW 41.32.010(~~((+11))~~) (17) on or after July 1, 1996; or

37 (b) RCW 41.35.010 on or after September 1, 2000; or

38 (c) RCW 41.40.010 on or after March 1, 2002;

1 and who are at least age fifty-five and have at least ten years of
2 service under the teachers' retirement system plan 3 as defined in RCW
3 41.32.010(~~(+40+)~~) (33), the Washington school employees' retirement
4 system plan 3 as defined in RCW 41.35.010, or the public employees'
5 retirement system plan 3 as defined in RCW 41.40.010.

6 (16) "Emergency service personnel killed in the line of duty" means
7 law enforcement officers and firefighters as defined in RCW 41.26.030,
8 members of the Washington state patrol retirement fund as defined in
9 RCW 43.43.120, and reserve officers and firefighters as defined in RCW
10 41.24.010 who die as a result of injuries sustained in the course of
11 employment as determined consistent with Title 51 RCW by the department
12 of labor and industries.

13 (17) "Employer" means the state of Washington.

14 (18) "Employing agency" means a division, department, or separate
15 agency of state government, including an institution of higher
16 education; a county, municipality, school district, educational service
17 district, or other political subdivision; and a tribal government
18 covered by this chapter.

19 (19) "Tribal government" means an Indian tribal government as
20 defined in section 3(32) of the employee retirement income security act
21 of 1974, as amended, or an agency or instrumentality of the tribal
22 government, that has government offices principally located in this
23 state.

24 (20) "Dependent care assistance program" means a benefit plan
25 whereby state and public employees may pay for certain employment
26 related dependent care with pretax dollars as provided in the salary
27 reduction plan under this chapter pursuant to 26 U.S.C. Sec. 129 or
28 other sections of the internal revenue code.

29 (21) "Salary reduction plan" means a benefit plan whereby state and
30 public employees may agree to a reduction of salary on a pretax basis
31 to participate in the dependent care assistance program, medical
32 flexible spending arrangement, or premium payment plan offered pursuant
33 to 26 U.S.C. Sec. 125 or other sections of the internal revenue code.

34 (22) "Medical flexible spending arrangement" means a benefit plan
35 whereby state and public employees may reduce their salary before taxes
36 to pay for medical expenses not reimbursed by insurance as provided in
37 the salary reduction plan under this chapter pursuant to 26 U.S.C. Sec.
38 125 or other sections of the internal revenue code.

1 **Sec. 55.** RCW 41.05.015 and 2000 c 5 s 16 are each amended to read
2 as follows:

3 The (~~administrator~~) director shall designate a medical director
4 who is licensed under chapter 18.57 or 18.71 RCW. The director shall
5 also appoint such professional personnel and other assistants and
6 employees, including professional medical screeners, as may be
7 reasonably necessary to carry out the provisions of this chapter and
8 chapter 74.09 RCW. The medical screeners must be supervised by one or
9 more physicians whom the director or the director's designee shall
10 appoint.

11 **Sec. 56.** RCW 41.05.021 and 2009 c 537 s 4 are each amended to read
12 as follows:

13 (1) The Washington state health care authority is created within
14 the executive branch. The authority shall have (~~an administrator~~) a
15 director appointed by the governor, with the consent of the senate.
16 The (~~administrator~~) director shall serve at the pleasure of the
17 governor. The (~~administrator~~) director may employ (~~up to seven~~
18 ~~staff members~~) a deputy director, and such assistant directors and
19 special assistants as may be needed to administer the authority, who
20 shall be exempt from chapter 41.06 RCW, and any additional staff
21 members as are necessary to administer this chapter. The
22 (~~administrator~~) director may delegate any power or duty vested in him
23 or her by (~~this chapter~~) law, including authority to make final
24 decisions and enter final orders in hearings conducted under chapter
25 34.05 RCW. The primary duties of the authority shall be to:
26 Administer state employees' insurance benefits and retired or disabled
27 school employees' insurance benefits; administer the basic health plan
28 pursuant to chapter 70.47 RCW; administer the children's health program
29 pursuant to chapter 74.09 RCW; study state-purchased health care
30 programs in order to maximize cost containment in these programs while
31 ensuring access to quality health care; implement state initiatives,
32 joint purchasing strategies, and techniques for efficient
33 administration that have potential application to all state-purchased
34 health services; and administer grants that further the mission and
35 goals of the authority. The authority's duties include, but are not
36 limited to, the following:

1 (a) To administer health care benefit programs for employees and
2 retired or disabled school employees as specifically authorized in RCW
3 41.05.065 and in accordance with the methods described in RCW
4 41.05.075, 41.05.140, and other provisions of this chapter;

5 (b) To analyze state-purchased health care programs and to explore
6 options for cost containment and delivery alternatives for those
7 programs that are consistent with the purposes of those programs,
8 including, but not limited to:

9 (i) Creation of economic incentives for the persons for whom the
10 state purchases health care to appropriately utilize and purchase
11 health care services, including the development of flexible benefit
12 plans to offset increases in individual financial responsibility;

13 (ii) Utilization of provider arrangements that encourage cost
14 containment, including but not limited to prepaid delivery systems,
15 utilization review, and prospective payment methods, and that ensure
16 access to quality care, including assuring reasonable access to local
17 providers, especially for employees residing in rural areas;

18 (iii) Coordination of state agency efforts to purchase drugs
19 effectively as provided in RCW 70.14.050;

20 (iv) Development of recommendations and methods for purchasing
21 medical equipment and supporting services on a volume discount basis;

22 (v) Development of data systems to obtain utilization data from
23 state-purchased health care programs in order to identify cost centers,
24 utilization patterns, provider and hospital practice patterns, and
25 procedure costs, utilizing the information obtained pursuant to RCW
26 41.05.031; and

27 (vi) In collaboration with other state agencies that administer
28 state purchased health care programs, private health care purchasers,
29 health care facilities, providers, and carriers:

30 (A) Use evidence-based medicine principles to develop common
31 performance measures and implement financial incentives in contracts
32 with insuring entities, health care facilities, and providers that:

33 (I) Reward improvements in health outcomes for individuals with
34 chronic diseases, increased utilization of appropriate preventive
35 health services, and reductions in medical errors; and

36 (II) Increase, through appropriate incentives to insuring entities,
37 health care facilities, and providers, the adoption and use of

1 information technology that contributes to improved health outcomes,
2 better coordination of care, and decreased medical errors;

3 (B) Through state health purchasing, reimbursement, or pilot
4 strategies, promote and increase the adoption of health information
5 technology systems, including electronic medical records, by hospitals
6 as defined in RCW 70.41.020(4), integrated delivery systems, and
7 providers that:

8 (I) Facilitate diagnosis or treatment;

9 (II) Reduce unnecessary duplication of medical tests;

10 (III) Promote efficient electronic physician order entry;

11 (IV) Increase access to health information for consumers and their
12 providers; and

13 (V) Improve health outcomes;

14 (C) Coordinate a strategy for the adoption of health information
15 technology systems using the final health information technology report
16 and recommendations developed under chapter 261, Laws of 2005;

17 (c) To analyze areas of public and private health care interaction;

18 (d) To provide information and technical and administrative
19 assistance to the board;

20 (e) To review and approve or deny applications from counties,
21 municipalities, and other political subdivisions of the state to
22 provide state-sponsored insurance or self-insurance programs to their
23 employees in accordance with the provisions of RCW 41.04.205 and (g) of
24 this subsection, setting the premium contribution for approved groups
25 as outlined in RCW 41.05.050;

26 (f) To review and approve or deny the application when the
27 governing body of a tribal government applies to transfer their
28 employees to an insurance or self-insurance program administered under
29 this chapter. In the event of an employee transfer pursuant to this
30 subsection (1)(f), members of the governing body are eligible to be
31 included in such a transfer if the members are authorized by the tribal
32 government to participate in the insurance program being transferred
33 from and subject to payment by the members of all costs of insurance
34 for the members. The authority shall: (i) Establish the conditions
35 for participation; (ii) have the sole right to reject the application;
36 and (iii) set the premium contribution for approved groups as outlined
37 in RCW 41.05.050. Approval of the application by the authority

1 transfers the employees and dependents involved to the insurance,
2 self-insurance, or health care program approved by the authority;

3 (g) To ensure the continued status of the employee insurance or
4 self-insurance programs administered under this chapter as a
5 governmental plan under section 3(32) of the employee retirement income
6 security act of 1974, as amended, the authority shall limit the
7 participation of employees of a county, municipal, school district,
8 educational service district, or other political subdivision, or a
9 tribal government, including providing for the participation of those
10 employees whose services are substantially all in the performance of
11 essential governmental functions, but not in the performance of
12 commercial activities;

13 (h) To establish billing procedures and collect funds from school
14 districts in a way that minimizes the administrative burden on
15 districts;

16 (i) To publish and distribute to nonparticipating school districts
17 and educational service districts by October 1st of each year a
18 description of health care benefit plans available through the
19 authority and the estimated cost if school districts and educational
20 service district employees were enrolled;

21 (j) To apply for, receive, and accept grants, gifts, and other
22 payments, including property and service, from any governmental or
23 other public or private entity or person, and make arrangements as to
24 the use of these receipts to implement initiatives and strategies
25 developed under this section;

26 (k) To issue, distribute, and administer grants that further the
27 mission and goals of the authority;

28 (l) To adopt rules consistent with this chapter as described in RCW
29 41.05.160 including, but not limited to:

30 (i) Setting forth the criteria established by the board under RCW
31 41.05.065 for determining whether an employee is eligible for benefits;

32 (ii) Establishing an appeal process in accordance with chapter
33 34.05 RCW by which an employee may appeal an eligibility determination;

34 (iii) Establishing a process to assure that the eligibility
35 determinations of an employing agency comply with the criteria under
36 this chapter, including the imposition of penalties as may be
37 authorized by the board;

1 (m)(i) To administer the medical services programs established
2 under chapter 74.09 RCW as the designated single state agency for
3 purposes of Title XIX of the federal social security act;

4 (ii) To administer the state children's health insurance program
5 under chapter 74.09 RCW for purposes of Title XXI of the federal social
6 security act;

7 (iii) To enter into agreements with the department of social and
8 health services for administration of medical care services programs
9 under Titles XIX and XXI of the social security act. The agreements
10 shall establish the division of responsibilities between the authority
11 and the department with respect to mental health, chemical dependency,
12 and long-term care services, including services for persons with
13 developmental disabilities. The agreements shall be revised as
14 necessary, to comply with the final implementation plan adopted under
15 section 117 of this act;

16 (iv) To adopt rules to carry out the purposes of chapter 74.09 RCW;

17 (v) To appoint such advisory committees or councils as may be
18 required by any federal statute or regulation as a condition to the
19 receipt of federal funds by the authority. The director may appoint
20 statewide committees or councils in the following subject areas: (A)
21 Health facilities; (B) children and youth services; (C) blind services;
22 (D) medical and health care; (E) drug abuse and alcoholism; (F)
23 rehabilitative services; and (G) such other subject matters as are or
24 come within the authority's responsibilities. The statewide councils
25 shall have representation from both major political parties and shall
26 have substantial consumer representation. Such committees or councils
27 shall be constituted as required by federal law or as the director in
28 his or her discretion may determine. The members of the committees or
29 councils shall hold office for three years except in the case of a
30 vacancy, in which event appointment shall be only for the remainder of
31 the unexpired term for which the vacancy occurs. No member shall serve
32 more than two consecutive terms. Members of such state advisory
33 committees or councils may be paid their travel expenses in accordance
34 with RCW 43.03.050 and 43.03.060 as now existing or hereafter amended.

35 (2) On and after January 1, 1996, the public employees' benefits
36 board may implement strategies to promote managed competition among
37 employee health benefit plans. Strategies may include but are not
38 limited to:

- 1 (a) Standardizing the benefit package;
- 2 (b) Soliciting competitive bids for the benefit package;
- 3 (c) Limiting the state's contribution to a percent of the lowest
- 4 priced qualified plan within a geographical area;
- 5 (d) Monitoring the impact of the approach under this subsection
- 6 with regards to: Efficiencies in health service delivery, cost shifts
- 7 to subscribers, access to and choice of managed care plans statewide,
- 8 and quality of health services. The health care authority shall also
- 9 advise on the value of administering a benchmark employer-managed plan
- 10 to promote competition among managed care plans.

11 **Sec. 57.** RCW 41.05.036 and 2009 c 300 s 2 are each amended to read

12 as follows:

13 The definitions in this section apply throughout RCW 41.05.039

14 through 41.05.046 unless the context clearly requires otherwise.

15 (1) (~~("Administrator")~~) "Director" means the (~~(administrator)~~)

16 director of the state health care authority under this chapter.

17 (2) "Exchange" means the methods or medium by which health care

18 information may be electronically and securely exchanged among

19 authorized providers, payors, and patients within Washington state.

20 (3) "Health care provider" or "provider" has the same meaning as in

21 RCW 48.43.005.

22 (4) "Health data provider" means an organization that is a primary

23 source for health-related data for Washington residents, including but

24 not limited to:

25 (a) The children's health immunizations linkages and development

26 profile immunization registry provided by the department of health

27 pursuant to chapter 43.70 RCW;

28 (b) Commercial laboratories providing medical laboratory testing

29 results;

30 (c) Prescription drugs clearinghouses, such as the national patient

31 health information network; and

32 (d) Diagnostic imaging centers.

33 (5) "Lead organization" means a private sector organization or

34 organizations designated by the (~~(administrator)~~) director to lead

35 development of processes, guidelines, and standards under chapter 300,

36 Laws of 2009.

1 (6) "Payor" means public purchasers, as defined in this section,
2 carriers licensed under chapters 48.20, 48.21, 48.44, 48.46, and 48.62
3 RCW, and the Washington state health insurance pool established in
4 chapter 48.41 RCW.

5 (7) "Public purchaser" means the department of social and health
6 services, the department of labor and industries, and the health care
7 authority.

8 (8) "Secretary" means the secretary of the department of health.

9 **Sec. 58.** RCW 41.05.037 and 2007 c 259 s 15 are each amended to
10 read as follows:

11 To the extent that ((sufficient)) funding is provided specifically
12 for this purpose, the ((administrator, in collaboration with the
13 department of social and health services,)) director shall provide all
14 persons enrolled in health plans under this chapter and chapters 70.47
15 and 74.09 RCW with access to a twenty-four hour, seven day a week nurse
16 hotline.

17 **Sec. 59.** RCW 41.05.140 and 2000 c 80 s 5 are each amended to read
18 as follows:

19 (1) Except for property and casualty insurance, the authority may
20 self-fund, self-insure, or enter into other methods of providing
21 insurance coverage for insurance programs under its jurisdiction,
22 including the basic health plan as provided in chapter 70.47 RCW. The
23 authority shall contract for payment of claims or other administrative
24 services for programs under its jurisdiction. If a program does not
25 require the prepayment of reserves, the authority shall establish such
26 reserves within a reasonable period of time for the payment of claims
27 as are normally required for that type of insurance under an insured
28 program. The authority shall endeavor to reimburse basic health plan
29 health care providers under this section at rates similar to the
30 average reimbursement rates offered by the statewide benchmark plan
31 determined through the request for proposal process.

32 (2) Reserves established by the authority for employee and retiree
33 benefit programs shall be held in a separate trust fund by the state
34 treasurer and shall be known as the public employees' and retirees'
35 insurance reserve fund. The state investment board shall act as the
36 investor for the funds and, except as provided in RCW 43.33A.160 and

1 43.84.160, one hundred percent of all earnings from these investments
2 shall accrue directly to the public employees' and retirees' insurance
3 reserve fund.

4 (3) Any savings realized as a result of a program created for
5 employees and retirees under this section shall not be used to increase
6 benefits unless such use is authorized by statute.

7 (4) Reserves established by the authority to provide insurance
8 coverage for the basic health plan under chapter 70.47 RCW shall be
9 held in a separate trust account in the custody of the state treasurer
10 and shall be known as the basic health plan self-insurance reserve
11 account. The state investment board shall act as the investor for the
12 funds as set forth in RCW 43.33A.230 and, except as provided in RCW
13 43.33A.160 and 43.84.160, one hundred percent of all earnings from
14 these investments shall accrue directly to the basic health plan self-
15 insurance reserve account.

16 (5) Any program created under this section shall be subject to the
17 examination requirements of chapter 48.03 RCW as if the program were a
18 domestic insurer. In conducting an examination, the commissioner shall
19 determine the adequacy of the reserves established for the program.

20 (6) The authority shall keep full and adequate accounts and records
21 of the assets, obligations, transactions, and affairs of any program
22 created under this section.

23 (7) The authority shall file a quarterly statement of the financial
24 condition, transactions, and affairs of any program created under this
25 section in a form and manner prescribed by the insurance commissioner.
26 The statement shall contain information as required by the commissioner
27 for the type of insurance being offered under the program. A copy of
28 the annual statement shall be filed with the speaker of the house of
29 representatives and the president of the senate.

30 (8) The provisions of this section do not apply to the
31 administration of chapter 74.09 RCW.

32 **Sec. 60.** RCW 41.05.185 and 1997 c 276 s 1 are each amended to read
33 as follows:

34 The legislature finds that diabetes imposes a significant health
35 risk and tremendous financial burden on the citizens and government of
36 the state of Washington, and that access to the medically accepted

1 standards of care for diabetes, its treatment and supplies, and self-
2 management training and education is crucial to prevent or delay the
3 short and long-term complications of diabetes and its attendant costs.

4 (1) The definitions in this subsection apply throughout this
5 section unless the context clearly requires otherwise.

6 (a) "Person with diabetes" means a person diagnosed by a health
7 care provider as having insulin using diabetes, noninsulin using
8 diabetes, or elevated blood glucose levels induced by pregnancy; and

9 (b) "Health care provider" means a health care provider as defined
10 in RCW 48.43.005.

11 (2) All state-purchased health care purchased or renewed after
12 January 1, 1998, except the basic health plan described in chapter
13 70.47 RCW and services provided under chapter 74.09 RCW, shall provide
14 benefits for at least the following services and supplies for persons
15 with diabetes:

16 (a) For state-purchased health care that includes coverage for
17 pharmacy services, appropriate and medically necessary equipment and
18 supplies, as prescribed by a health care provider, that includes but is
19 not limited to insulin, syringes, injection aids, blood glucose
20 monitors, test strips for blood glucose monitors, visual reading and
21 urine test strips, insulin pumps and accessories to the pumps, insulin
22 infusion devices, prescriptive oral agents for controlling blood sugar
23 levels, foot care appliances for prevention of complications associated
24 with diabetes, and glucagon emergency kits; and

25 (b) For all state-purchased health care, outpatient self-management
26 training and education, including medical nutrition therapy, as ordered
27 by the health care provider. Diabetes outpatient self-management
28 training and education may be provided only by health care providers
29 with expertise in diabetes. Nothing in this section prevents any state
30 agency purchasing health care according to this section from
31 restricting patients to seeing only health care providers who have
32 signed participating provider agreements with that state agency or an
33 insuring entity under contract with that state agency.

34 (3) Coverage required under this section may be subject to
35 customary cost-sharing provisions established for all other similar
36 services or supplies within a policy.

37 (4) Health care coverage may not be reduced or eliminated due to
38 this section.

1 (5) Services required under this section shall be covered when
2 deemed medically necessary by the medical director, or his or her
3 designee, subject to any referral and formulary requirements.

4 **Sec. 61.** RCW 43.20A.365 and 1997 c 430 s 2 are each amended to
5 read as follows:

6 A committee or council required by federal law, within the
7 (~~department of social and health services~~) health care authority,
8 that makes policy recommendations regarding reimbursement for drugs
9 under the requirements of federal law or regulations is subject to
10 chapters 42.30 and 42.32 RCW.

11 **Sec. 62.** RCW 74.04.005 and 2010 1st sp.s. c 8 s 4 are each amended
12 to read as follows:

13 For the purposes of this title, unless the context indicates
14 otherwise, the following definitions shall apply:

15 (1) "Public assistance" or "assistance"--Public aid to persons in
16 need thereof for any cause, including services, medical care,
17 assistance grants, disbursing orders, work relief, disability lifeline
18 benefits and federal aid assistance.

19 (2) "Department"--The department of social and health services.

20 (3) "County or local office"--The administrative office for one or
21 more counties or designated service areas.

22 (4) (~~"Director" or~~) "Secretary" means the secretary of social and
23 health services.

24 (5) "Disability lifeline program" means a program that provides aid
25 and support in accordance with the conditions set out in this
26 subsection.

27 (a) Aid and assistance shall be provided to persons who are not
28 eligible to receive federal aid assistance, other than basic food
29 benefits transferred electronically and medical assistance and meet one
30 of the following conditions:

31 (i) Are pregnant and in need, based upon the current income and
32 resource requirements of the federal temporary assistance for needy
33 families program; or

34 (ii) Are incapacitated from gainful employment by reason of bodily
35 or mental infirmity that will likely continue for a minimum of ninety
36 days as determined by the department. The standard for incapacity in

1 this subsection, as evidenced by the ninety-day duration standard, is
2 not intended to be as stringent as federal supplemental security income
3 disability standards; and

4 (A) Are citizens or aliens lawfully admitted for permanent
5 residence or otherwise residing in the United States under color of
6 law;

7 (B) Have furnished the department their social security number. If
8 the social security number cannot be furnished because it has not been
9 issued or is not known, an application for a number shall be made prior
10 to authorization of benefits, and the social security number shall be
11 provided to the department upon receipt;

12 (C) Have not refused or failed without good cause to participate in
13 drug or alcohol treatment if an assessment by a certified chemical
14 dependency counselor indicates a need for such treatment. Good cause
15 must be found to exist when a person's physical or mental condition, as
16 determined by the department, prevents the person from participating in
17 drug or alcohol dependency treatment, when needed outpatient drug or
18 alcohol treatment is not available to the person in the county of his
19 or her residence or when needed inpatient treatment is not available in
20 a location that is reasonably accessible for the person; and

21 (D) Have not refused or failed without good cause to participate in
22 vocational rehabilitation services, if an assessment conducted under
23 RCW 74.04.655 indicates that the person might benefit from such
24 services. Good cause must be found to exist when a person's physical
25 or mental condition, as determined by the department, prevents the
26 person from participating in vocational rehabilitation services, or
27 when vocational rehabilitation services are not available to the person
28 in the county of his or her residence.

29 (b)(i) Persons who initially apply and are found eligible for
30 disability lifeline benefits based upon incapacity from gainful
31 employment under (a) of this subsection on or after September 2, 2010,
32 who are homeless and have been assessed as needing chemical dependency
33 or mental health treatment or both, must agree, as a condition of
34 eligibility for the disability lifeline program, to accept a housing
35 voucher in lieu of a cash grant if a voucher is available. The
36 department shall establish the dollar value of the housing voucher.
37 The dollar value of the housing voucher may differ from the value of

1 the cash grant. Persons receiving a housing voucher under this
2 subsection also shall receive a cash stipend of fifty dollars per
3 month.

4 (ii) If the department of commerce has determined under RCW
5 43.330.175 that sufficient housing is not available, persons described
6 in this subsection who apply for disability lifeline benefits during
7 the time period that housing is not available shall receive a cash
8 grant in lieu of a cash stipend and housing voucher.

9 (iii) Persons who refuse to accept a housing voucher under this
10 subsection but otherwise meet the eligibility requirements of (a) of
11 this subsection are eligible for medical care services benefits under
12 RCW 74.09.035, subject to the time limits in (h) of this subsection.

13 (c) The following persons are not eligible for the disability
14 lifeline program:

15 (i) Persons who are unemployable due primarily to alcohol or drug
16 addiction. These persons shall be referred to appropriate assessment,
17 treatment, shelter, or supplemental security income referral services
18 as authorized under chapter 74.50 RCW. Referrals shall be made at the
19 time of application or at the time of eligibility review. This
20 subsection shall not be construed to prohibit the department from
21 granting disability lifeline benefits to alcoholics and drug addicts
22 who are incapacitated due to other physical or mental conditions that
23 meet the eligibility criteria for the disability lifeline program;

24 (ii) Persons who refuse or fail to cooperate in obtaining federal
25 aid assistance, without good cause.

26 (d) Disability lifeline benefits shall be provided only to persons
27 who are not members of assistance units receiving federal aid
28 assistance, except as provided in (a) of this subsection, and who will
29 accept available services that can reasonably be expected to enable the
30 person to work or reduce the need for assistance unless there is good
31 cause to refuse. Failure to accept such services shall result in
32 termination until the person agrees to cooperate in accepting such
33 services and subject to the following maximum periods of ineligibility
34 after reapplication:

- 35 (i) First failure: One week;
- 36 (ii) Second failure within six months: One month;
- 37 (iii) Third and subsequent failure within one year: Two months.

1 (e) Persons who are likely eligible for federal supplemental
2 security income benefits shall be moved into the disability lifeline
3 expedited component of the disability lifeline program. Persons placed
4 in the expedited component of the program may, if otherwise eligible,
5 receive disability lifeline benefits pending application for federal
6 supplemental security income benefits. The monetary value of any
7 disability lifeline benefit that is subsequently duplicated by the
8 person's receipt of supplemental security income for the same period
9 shall be considered a debt due the state and shall by operation of law
10 be subject to recovery through all available legal remedies.

11 (f) For purposes of determining whether a person is incapacitated
12 from gainful employment under (a) of this subsection:

13 (i) The department shall adopt by rule medical criteria for
14 disability lifeline incapacity determinations to ensure that
15 eligibility decisions are consistent with statutory requirements and
16 are based on clear, objective medical information; and

17 (ii) The process implementing the medical criteria shall involve
18 consideration of opinions of the treating or consulting physicians or
19 health care professionals regarding incapacity, and any eligibility
20 decision which rejects uncontroverted medical opinion must set forth
21 clear and convincing reasons for doing so.

22 (g) Persons receiving disability lifeline benefits based upon a
23 finding of incapacity from gainful employment who remain otherwise
24 eligible shall have their benefits discontinued unless the recipient
25 demonstrates no material improvement in their medical or mental health
26 condition. The department may discontinue benefits when there was
27 specific error in the prior determination that found the person
28 eligible by reason of incapacitation.

29 (h)(i) Beginning September 1, 2010, no person who is currently
30 receiving or becomes eligible for disability lifeline program benefits
31 shall be eligible to receive benefits under the program for more than
32 twenty-four months in a sixty-month period. For purposes of this
33 subsection, months of receipt of general assistance-unemployable
34 benefits count toward the twenty-four month limit. Months during which
35 a person received benefits under the expedited component of the
36 disability lifeline or general assistance program or under the aged,
37 blind, or disabled component of the disability lifeline or general
38 assistance program shall not be included when determining whether a

1 person has been receiving benefits for more than twenty-four months.
2 On or before July 1, 2010, the department must review the cases of all
3 persons who have received disability lifeline benefits or general
4 assistance unemployable benefits for at least twenty months as of that
5 date. On or before September 1, 2010, the department must review the
6 cases of all remaining persons who have received disability lifeline
7 benefits for at least twelve months as of that date. The review should
8 determine whether the person meets the federal supplemental security
9 income disability standard and, if the person does not meet that
10 standard, whether the receipt of additional services could lead to
11 employability. If a need for additional services is identified, the
12 department shall provide case management services, such as assistance
13 with arranging transportation or locating stable housing, that will
14 facilitate the person's access to needed services. A person may not be
15 determined ineligible due to exceeding the time limit unless he or she
16 has received a case review under this subsection finding that the
17 person does not meet the federal supplemental security income
18 disability standard.

19 (ii) The time limits established under this subsection expire June
20 30, 2013.

21 (i) No person may be considered an eligible individual for
22 disability lifeline benefits with respect to any month if during that
23 month the person:

24 (i) Is fleeing to avoid prosecution of, or to avoid custody or
25 confinement for conviction of, a felony, or an attempt to commit a
26 felony, under the laws of the state of Washington or the place from
27 which the person flees; or

28 (ii) Is violating a condition of probation, community supervision,
29 or parole imposed under federal or state law for a felony or gross
30 misdemeanor conviction.

31 (6) "Disability lifeline expedited" means a component of the
32 disability lifeline program under which persons receiving disability
33 lifeline benefits have been determined, after examination by an
34 appropriate health care provider, to be likely to be eligible for
35 federal supplemental security income benefits based on medical and
36 behavioral health evidence that meets the disability standards used for
37 the federal supplemental security income program.

1 (7) "Federal aid assistance"--The specific categories of assistance
2 for which provision is made in any federal law existing or hereafter
3 passed by which payments are made from the federal government to the
4 state in aid or in respect to payment by the state for public
5 assistance rendered to any category of needy persons for which
6 provision for federal funds or aid may from time to time be made, or a
7 federally administered needs-based program.

8 (8) "Applicant"--Any person who has made a request, or on behalf of
9 whom a request has been made, to any county or local office for
10 assistance.

11 (9) "Recipient"--Any person receiving assistance and in addition
12 those dependents whose needs are included in the recipient's
13 assistance.

14 (10) "Standards of assistance"--The level of income required by an
15 applicant or recipient to maintain a level of living specified by the
16 department.

17 (11) "Resource"--Any asset, tangible or intangible, owned by or
18 available to the applicant at the time of application, which can be
19 applied toward meeting the applicant's need, either directly or by
20 conversion into money or its equivalent. The department may by rule
21 designate resources that an applicant may retain and not be ineligible
22 for public assistance because of such resources. Exempt resources
23 shall include, but are not limited to:

24 (a) A home that an applicant, recipient, or their dependents is
25 living in, including the surrounding property;

26 (b) Household furnishings and personal effects;

27 (c) A motor vehicle, other than a motor home, used and useful
28 having an equity value not to exceed five thousand dollars;

29 (d) A motor vehicle necessary to transport a household member with
30 a physical disability. This exclusion is limited to one vehicle per
31 person with a physical disability;

32 (e) All other resources, including any excess of values exempted,
33 not to exceed one thousand dollars or other limit as set by the
34 department, to be consistent with limitations on resources and
35 exemptions necessary for federal aid assistance. The department shall
36 also allow recipients of temporary assistance for needy families to
37 exempt savings accounts with combined balances of up to an additional
38 three thousand dollars;

1 (f) Applicants for or recipients of disability lifeline benefits
2 shall have their eligibility based on resource limitations consistent
3 with the temporary assistance for needy families program rules adopted
4 by the department; and

5 (g) If an applicant for or recipient of public assistance possesses
6 property and belongings in excess of the ceiling value, such value
7 shall be used in determining the need of the applicant or recipient,
8 except that: (i) The department may exempt resources or income when
9 the income and resources are determined necessary to the applicant's or
10 recipient's restoration to independence, to decrease the need for
11 public assistance, or to aid in rehabilitating the applicant or
12 recipient or a dependent of the applicant or recipient; and (ii) the
13 department may provide grant assistance for a period not to exceed nine
14 months from the date the agreement is signed pursuant to this section
15 to persons who are otherwise ineligible because of excess real property
16 owned by such persons when they are making a good faith effort to
17 dispose of that property: PROVIDED, That:

18 (A) The applicant or recipient signs an agreement to repay the
19 lesser of the amount of aid received or the net proceeds of such sale;

20 (B) If the owner of the excess property ceases to make good faith
21 efforts to sell the property, the entire amount of assistance may
22 become an overpayment and a debt due the state and may be recovered
23 pursuant to RCW 43.20B.630;

24 (C) Applicants and recipients are advised of their right to a fair
25 hearing and afforded the opportunity to challenge a decision that good
26 faith efforts to sell have ceased, prior to assessment of an
27 overpayment under this section; and

28 (D) At the time assistance is authorized, the department files a
29 lien without a sum certain on the specific property.

30 (12) "Income"--(a) All appreciable gains in real or personal
31 property (cash or kind) or other assets, which are received by or
32 become available for use and enjoyment by an applicant or recipient
33 during the month of application or after applying for or receiving
34 public assistance. The department may by rule and regulation exempt
35 income received by an applicant for or recipient of public assistance
36 which can be used by him or her to decrease his or her need for public
37 assistance or to aid in rehabilitating him or her or his or her
38 dependents, but such exemption shall not, unless otherwise provided in

1 this title, exceed the exemptions of resources granted under this
2 chapter to an applicant for public assistance. In addition, for cash
3 assistance the department may disregard income pursuant to RCW
4 74.08A.230 and 74.12.350.

5 (b) If, under applicable federal requirements, the state has the
6 option of considering property in the form of lump sum compensatory
7 awards or related settlements received by an applicant or recipient as
8 income or as a resource, the department shall consider such property to
9 be a resource.

10 (13) "Need"--The difference between the applicant's or recipient's
11 standards of assistance for himself or herself and the dependent
12 members of his or her family, as measured by the standards of the
13 department, and value of all nonexempt resources and nonexempt income
14 received by or available to the applicant or recipient and the
15 dependent members of his or her family.

16 (14) "Authority" means the health care authority.

17 (15) "Director" means the director of the health care authority.

18 (16) For purposes of determining eligibility for public assistance
19 and participation levels in the cost of medical care, the department
20 shall exempt restitution payments made to people of Japanese and Aleut
21 ancestry pursuant to the Civil Liberties Act of 1988 and the Aleutian
22 and Pribilof Island Restitution Act passed by congress, P.L. 100-383,
23 including all income and resources derived therefrom.

24 ((+15+)) (17) In the construction of words and phrases used in this
25 title, the singular number shall include the plural, the masculine
26 gender shall include both the feminine and neuter genders and the
27 present tense shall include the past and future tenses, unless the
28 context thereof shall clearly indicate to the contrary.

29 **Sec. 63.** RCW 74.04.015 and 1981 1st ex.s. c 6 s 2 are each amended
30 to read as follows:

31 (1) The secretary of social and health services shall be the
32 responsible state officer for the administration ((of~~7~~)) and ((the))
33 disbursement of all funds, goods, commodities, and services, which may
34 be received by the state in connection with programs of public
35 assistance or services related directly or indirectly to assistance
36 programs, and all other matters included in the federal social security
37 act ((approved August 14, 1935)) as amended, or any other federal act

1 or as the same may be amended (~~(excepting those specifically required~~
2 ~~to be administered by other entities)~~) except as otherwise provided by
3 law.

4 (2) The director shall be the responsible state officer for the
5 administration and disbursement of funds that the state receives in
6 connection with the medical services programs established under chapter
7 74.09 RCW, including the state children's health insurance program,
8 Titles XIX and XXI of the social security act of 1935, as amended.

9 ((He)) (3) The department and the authority, as appropriate, shall
10 make such reports and render such accounting as may be required by
11 ((the)) federal ((agency having authority in the premises)) law.

12 **Sec. 64.** RCW 74.04.025 and 2010 c 296 s 7 are each amended to read
13 as follows:

14 (1) The department, the authority, and the office of administrative
15 hearings shall ensure that bilingual services are provided to non-
16 English speaking applicants and recipients. The services shall be
17 provided to the extent necessary to assure that non-English speaking
18 persons are not denied, or unable to obtain or maintain, services or
19 benefits because of their inability to speak English.

20 (2) If the number of non-English speaking applicants or recipients
21 sharing the same language served by any community service office client
22 contact job classification equals or exceeds fifty percent of the
23 average caseload of a full-time position in such classification, the
24 department shall, through attrition, employ bilingual personnel to
25 serve such applicants or recipients.

26 (3) Regardless of the applicant or recipient caseload of any
27 community service office, each community service office shall ensure
28 that bilingual services required to supplement the community service
29 office staff are provided through contracts with language access
30 providers, local agencies, or other community resources.

31 (4) The department shall certify, authorize, and qualify language
32 access providers as needed to maintain an adequate pool of providers.

33 (5) The department shall require compliance with RCW 41.56.113(2)
34 through its contracts with third parties.

35 (6) Initial client contact materials shall inform clients in all
36 primary languages of the availability of interpretation services for

1 non-English speaking persons. Basic informational pamphlets shall be
2 translated into all primary languages.

3 (7) To the extent all written communications directed to applicants
4 or recipients are not in the primary language of the applicant or
5 recipient, the department and the office of administrative hearings
6 shall include with the written communication a notice in all primary
7 languages of applicants or recipients describing the significance of
8 the communication and specifically how the applicants or recipients may
9 receive assistance in understanding, and responding to if necessary,
10 the written communication. The department shall assure that sufficient
11 resources are available to assist applicants and recipients in a timely
12 fashion with understanding, responding to, and complying with the
13 requirements of all such written communications.

14 (8) As used in this section:

15 (a) "Language access provider" means any independent contractor who
16 provides spoken language interpreter services for department
17 appointments or medicaid enrollee appointments, or provided these
18 services on or after January 1, 2009, and before June 10, 2010, whether
19 paid by a broker, language access agency, or the department. "Language
20 access provider" does not mean an owner, manager, or employee of a
21 broker or a language access agency.

22 (b) "Primary languages" includes but is not limited to Spanish,
23 Vietnamese, Cambodian, Laotian, and Chinese.

24 **Sec. 65.** RCW 74.04.050 and 1981 1st ex.s. c 6 s 3 are each amended
25 to read as follows:

26 (1) The department (~~(shall-serve)~~) is designated as the single
27 state agency to administer the following public assistance(~~(.—The~~
28 ~~department—is—hereby—empowered—and—authorized—to—cooperate—in—the~~
29 ~~administration—of—such—federal—laws,—consistent—with—the—public~~
30 ~~assistance—laws—of—this—state,—as—may—be—necessary—to—qualify—for~~
31 ~~federal—funds—for:~~

- 32 ~~(1) Medical assistance;~~
- 33 ~~(2) Aid to dependent children;~~
- 34 ~~(3))~~ programs:
 - 35 (a) Temporary assistance to needy families;
 - 36 (b) Child welfare services; and

1 ((4)) (c) Any other programs of public assistance for which
2 provision for federal grants or funds may from time to time be made,
3 except as otherwise provided by law.

4 (2) The authority is hereby designated as the single state agency
5 to administer the medical services programs established under chapter
6 74.09 RCW, including the state children's health insurance program,
7 Titles XIX and XXI of the federal social security act of 1935, as
8 amended.

9 (3) The department and the authority are hereby empowered and
10 authorized to cooperate in the administration of such federal laws,
11 consistent with the public assistance laws of this state, as may be
12 necessary to qualify for federal funds.

13 (4) The state hereby accepts and assents to all the present
14 provisions of the federal law under which federal grants or funds,
15 goods, commodities, and services are extended to the state for the
16 support of programs (~~administered by the department~~) referenced in
17 this section, and to such additional legislation as may subsequently be
18 enacted as is not inconsistent with the purposes of this title,
19 authorizing public welfare and assistance activities. The provisions
20 of this title shall be so administered as to conform with federal
21 requirements with respect to eligibility for the receipt of federal
22 grants or funds.

23 (5) The department and the authority shall periodically make
24 application for federal grants or funds and submit such plans, reports
25 and data, as are required by any act of congress as a condition
26 precedent to the receipt of federal funds for such assistance. The
27 department and the authority shall make and enforce such rules and
28 regulations as shall be necessary to insure compliance with the terms
29 and conditions of such federal grants or funds.

30 **Sec. 66.** RCW 74.04.055 and 1991 c 126 s 2 are each amended to read
31 as follows:

32 In furtherance of the policy of this state to cooperate with the
33 federal government in the programs included in this title the secretary
34 or director, as appropriate, shall issue such rules and regulations as
35 may become necessary to entitle this state to participate in federal
36 grants-in-aid, goods, commodities and services unless the same be
37 expressly prohibited by this title. Any section or provision of this

1 title which may be susceptible to more than one construction shall be
2 interpreted in favor of the construction most likely to satisfy federal
3 laws entitling this state to receive federal matching or other funds
4 for the various programs of public assistance. If any part of this
5 chapter is found to be in conflict with federal requirements which are
6 a prescribed condition to the receipts of federal funds to the state,
7 the conflicting part of this chapter is hereby inoperative solely to
8 the extent of the conflict with respect to the agencies directly
9 affected, and such finding or determination shall not affect the
10 operation of the remainder of this chapter.

11 **Sec. 67.** RCW 74.04.060 and 2006 c 259 s 5 are each amended to read
12 as follows:

13 (1)(a) For the protection of applicants and recipients, the
14 department, the authority, and the county offices and their respective
15 officers and employees are prohibited, except as hereinafter provided,
16 from disclosing the contents of any records, files, papers and
17 communications, except for purposes directly connected with the
18 administration of the programs of this title. In any judicial
19 proceeding, except such proceeding as is directly concerned with the
20 administration of these programs, such records, files, papers and
21 communications, and their contents, shall be deemed privileged
22 communications and except for the right of any individual to inquire of
23 the office whether a named individual is a recipient of welfare
24 assistance and such person shall be entitled to an affirmative or
25 negative answer.

26 (b) Upon written request of a parent who has been awarded
27 visitation rights in an action for divorce or separation or any parent
28 with legal custody of the child, the department shall disclose to him
29 or her the last known address and location of his or her natural or
30 adopted children. The secretary shall adopt rules which establish
31 procedures for disclosing the address of the children and providing,
32 when appropriate, for prior notice to the custodian of the children.
33 The notice shall state that a request for disclosure has been received
34 and will be complied with by the department unless the department
35 receives a copy of a court order which enjoins the disclosure of the
36 information or restricts or limits the requesting party's right to
37 contact or visit the other party or the child. Information supplied to

1 a parent by the department shall be used only for purposes directly
2 related to the enforcement of the visitation and custody provisions of
3 the court order of separation or decree of divorce. No parent shall
4 disclose such information to any other person except for the purpose of
5 enforcing visitation provisions of the said order or decree.

6 (c) The department shall review methods to improve the protection
7 and confidentiality of information for recipients of welfare assistance
8 who have disclosed to the department that they are past or current
9 victims of domestic violence or stalking.

10 (2) The county offices shall maintain monthly at their offices a
11 report showing the names and addresses of all recipients in the county
12 receiving public assistance under this title, together with the amount
13 paid to each during the preceding month.

14 (3) The provisions of this section shall not apply to duly
15 designated representatives of approved private welfare agencies, public
16 officials, members of legislative interim committees and advisory
17 committees when performing duties directly connected with the
18 administration of this title, such as regulation and investigation
19 directly connected therewith: PROVIDED, HOWEVER, That any information
20 so obtained by such persons or groups shall be treated with such degree
21 of confidentiality as is required by the federal social security law.

22 (4) It shall be unlawful, except as provided in this section, for
23 any person, body, association, firm, corporation or other agency to
24 solicit, publish, disclose, receive, make use of, or to authorize,
25 knowingly permit, participate in or acquiesce in the use of any lists
26 or names for commercial or political purposes of any nature. The
27 violation of this section shall be a gross misdemeanor.

28 **Sec. 68.** RCW 74.04.062 and 1997 c 58 s 1006 are each amended to
29 read as follows:

30 Upon written request of a person who has been properly identified
31 as an officer of the law or a properly identified United States
32 immigration official the department or authority shall disclose to such
33 officer the current address and location of a recipient of public
34 welfare if the officer furnishes the department or authority with such
35 person's name and social security account number and satisfactorily
36 demonstrates that such recipient is a fugitive, that the location or

1 apprehension of such fugitive is within the officer's official duties,
2 and that the request is made in the proper exercise of those duties.

3 When the department or authority becomes aware that a public
4 assistance recipient is the subject of an outstanding warrant, the
5 department or authority may contact the appropriate law enforcement
6 agency and, if the warrant is valid, provide the law enforcement agency
7 with the location of the recipient.

8 **Sec. 69.** RCW 74.04.290 and 1983 1st ex.s. c 41 s 22 are each
9 amended to read as follows:

10 In carrying out any of the provisions of this title, the secretary,
11 the director, county administrators, hearing examiners, or other duly
12 authorized officers of the department or authority shall have power to
13 subpoena witnesses, administer oaths, take testimony and compel the
14 production of such papers, books, records and documents as they may
15 deem relevant to the performance of their duties. Subpoenas issued
16 under this power shall be under RCW 43.20A.605.

17 **Sec. 70.** RCW 7.68.080 and 1990 c 3 s 503 are each amended to read
18 as follows:

19 The provisions of chapter 51.36 RCW as now or hereafter amended
20 govern the provision of medical aid under this chapter to victims
21 injured as a result of a criminal act, including criminal acts
22 committed between July 1, 1981, and January 1, 1983, except that:

23 (1) The provisions contained in RCW 51.36.030, 51.36.040, and
24 51.36.080 as now or hereafter amended do not apply to this chapter;

25 (2) The specific provisions of RCW 51.36.020 as now or hereafter
26 amended relating to supplying emergency transportation do not apply:
27 PROVIDED, That:

28 (a) When the injury to any victim is so serious as to require the
29 victim's being taken from the place of injury to a place of treatment,
30 reasonable transportation costs to the nearest place of proper
31 treatment shall be reimbursed from the fund established pursuant to RCW
32 7.68.090; and

33 (b) In the case of alleged rape or molestation of a child the
34 reasonable costs of a colposcope examination shall be reimbursed from
35 the fund pursuant to RCW 7.68.090. Hospital, clinic, and medical
36 charges along with all related fees under this chapter shall conform to

1 regulations promulgated by the director. The director shall set these
2 service levels and fees at a level no lower than those established by
3 the (~~department of social and health services~~) health care authority
4 under Title 74 RCW. In establishing fees for medical and other health
5 care services, the director shall consider the director's duty to
6 purchase health care in a prudent, cost-effective manner. The director
7 shall establish rules adopted in accordance with chapter 34.05 RCW.
8 Nothing in this chapter may be construed to require the payment of
9 interest on any billing, fee, or charge.

10 **Sec. 71.** RCW 43.41.160 and 1986 c 303 s 11 are each amended to
11 read as follows:

12 (1) It is the purpose of this section to ensure implementation and
13 coordination of chapter 70.14 RCW as well as other legislative and
14 executive policies designed to contain the cost of health care that is
15 purchased or provided by the state. In order to achieve that purpose,
16 the director may:

17 (a) Establish within the (~~office of financial management~~) health
18 care authority a health care cost containment program in cooperation
19 with all state agencies;

20 (b) Implement lawful health care cost containment policies that
21 have been adopted by the legislature or the governor, including
22 appropriation provisos;

23 (c) Coordinate the activities of all state agencies with respect to
24 health care cost containment policies;

25 (d) Study and make recommendations on health care cost containment
26 policies;

27 (e) Monitor and report on the implementation of health care cost
28 containment policies;

29 (f) Appoint a health care cost containment technical advisory
30 committee that represents state agencies that are involved in the
31 direct purchase, funding, or provision of health care; and

32 (g) Engage in other activities necessary to achieve the purposes of
33 this section.

34 (2) All state agencies shall cooperate with the director in
35 carrying out the purpose of this section.

1 **Sec. 72.** RCW 43.41.260 and 2009 c 479 s 28 are each amended to
2 read as follows:

3 The health care authority(~~(7)~~) and the office of financial
4 management(~~(7, and the department of social and health services)~~) shall
5 together monitor the enrollee level in the basic health plan and the
6 medicaid caseload of children. The office of financial management
7 shall adjust the funding levels by interagency reimbursement of funds
8 between the basic health plan and medicaid and adjust the funding
9 levels (~~(between)~~) for the health care authority (~~(and the medical
10 assistance administration of the department of social and health
11 services)~~) to maximize combined enrollment.

12 **Sec. 73.** RCW 43.70.670 and 2007 c 259 s 38 are each amended to
13 read as follows:

14 (1) "Human immunodeficiency virus insurance program," as used in
15 this section, means a program that provides health insurance coverage
16 for individuals with human immunodeficiency virus, as defined in RCW
17 70.24.017(7), who are not eligible for medical assistance programs from
18 the (~~(department of social and health services)~~) health care authority
19 as defined in RCW 74.09.010(~~(+8)~~) (10) and meet eligibility
20 requirements established by the department of health.

21 (2) The department of health may pay for health insurance coverage
22 on behalf of persons with human immunodeficiency virus, who meet
23 department eligibility requirements, and who are eligible for
24 "continuation coverage" as provided by the federal consolidated omnibus
25 budget reconciliation act of 1985, group health insurance policies, or
26 individual policies.

27 **Sec. 74.** RCW 47.06B.020 and 2009 c 515 s 4 are each amended to
28 read as follows:

29 (1) The agency council on coordinated transportation is created.
30 The purpose of the council is to advance and improve accessibility to
31 and coordination of special needs transportation services statewide.
32 The council is composed of fourteen voting members and four nonvoting,
33 legislative members.

34 (2) The fourteen voting members are the superintendent of public
35 instruction or a designee, the secretary of transportation or a

1 designee, the (~~secretary of the department of social and health~~
2 ~~services~~) director of the health care authority or a designee, and
3 eleven members appointed by the governor as follows:

4 (a) One representative from the office of the governor;

5 (b) Three persons who are consumers of special needs transportation
6 services, which must include:

7 (i) One person designated by the executive director of the
8 governor's committee on disability issues and employment; and

9 (ii) One person who is designated by the executive director of the
10 developmental disabilities council;

11 (c) One representative from the Washington association of pupil
12 transportation;

13 (d) One representative from the Washington state transit
14 association;

15 (e) One of the following:

16 (i) A representative from the community transportation association
17 of the Northwest; or

18 (ii) A representative from the community action council
19 association;

20 (f) One person who represents regional transportation planning
21 organizations and metropolitan planning organizations;

22 (g) One representative of brokers who provide nonemergency,
23 medically necessary trips to persons with special transportation needs
24 under the medicaid program administered by the (~~department of social~~
25 ~~and health services~~) health care authority;

26 (h) One representative from the Washington state department of
27 veterans affairs; and

28 (i) One representative of the state association of counties.

29 (3) The four nonvoting members are legislators as follows:

30 (a) Two members from the house of representatives, one from each of
31 the two largest caucuses, appointed by the speaker of the house of
32 representatives, including at least one member from the house
33 transportation policy and budget committee or the house appropriations
34 committee; and

35 (b) Two members from the senate, one from each of the two largest
36 caucuses, appointed by the president of the senate, including at least
37 one member from the senate transportation committee or the senate ways
38 and means committee.

1 (4) Gubernatorial appointees of the council will serve two-year
2 terms. Members may not receive compensation for their service on the
3 council, but will be reimbursed for actual and necessary expenses
4 incurred in performing their duties as members as set forth in RCW
5 43.03.220.

6 (5) The council shall vote on an annual basis to elect one of its
7 voting members to serve as chair. The position of chair must rotate
8 among the represented agencies, associations, and interest groups at
9 least every two years. If the position of chair is vacated for any
10 reason, the secretary of transportation or the secretary's designee
11 shall serve as acting chair until the next regular meeting of the
12 council, at which time the members will elect a chair.

13 (6) The council shall periodically assess its membership to ensure
14 that there exists a balanced representation of persons with special
15 transportation needs and providers of special transportation needs
16 services. Recommendations for modifying the membership of the council
17 must be included in the council's biennial report to the legislature as
18 provided in RCW 47.06B.050.

19 (7) The department of transportation shall provide necessary staff
20 support for the council.

21 (8) The council may receive gifts, grants, or endowments from
22 public or private sources that are made from time to time, in trust or
23 otherwise, for the use and benefit of the purposes of the council and
24 spend gifts, grants, or endowments or income from the public or private
25 sources according to their terms, unless the receipt of the gifts,
26 grants, or endowments violates RCW 42.17.710.

27 (9) The meetings of the council must be open to the public, with
28 the agenda published in advance, and minutes kept and made available to
29 the public. The public notice of the meetings must indicate that
30 accommodations for persons with disabilities will be made available
31 upon request.

32 (10) All meetings of the council must be held in locations that are
33 readily accessible to public transportation, and must be scheduled for
34 times when public transportation is available.

35 (11) The council shall make an effort to include presentations by
36 and work sessions including persons with special transportation needs.

1 **Sec. 75.** RCW 47.06B.060 and 2009 c 515 s 1 are each amended to
2 read as follows:

3 (1) In 2007, the legislature directed the joint transportation
4 committee to conduct a study of special needs transportation to examine
5 and evaluate the effectiveness of special needs transportation in the
6 state. A particular goal of the study was to explore opportunities to
7 enhance coordination of special needs transportation programs to ensure
8 that they are delivered efficiently and result in improved access and
9 increased mobility options for their clients. It is the intent of the
10 legislature to further consider some of the recommendations, and to
11 implement many of these recommendations in the form of two pilot
12 projects that will test the potential for applying these
13 recommendations statewide in the future.

14 (2) The legislature is aware that the department of social and
15 health services submitted an application in December of 2008 to the
16 federal centers for medicare and medicaid services, seeking approval to
17 use the medical match system, a federal funding system that has
18 different requirements from the federal administrative match system
19 currently used by the department. It is the intent of the legislature
20 to advance the goals of chapter 515, Laws of 2009 and the
21 recommendations of the study identified in subsection (1) of this
22 section without jeopardizing the application made by the department.

23 (3) By August 15, 2009, the agency council on coordinated
24 transportation shall appoint a work group for the purpose of
25 identifying relevant federal requirements related to special needs
26 transportation, and identifying solutions to streamline the
27 requirements and increase efficiencies in transportation services
28 provided for persons with special transportation needs. To advance its
29 purpose, the work group shall work with relevant federal
30 representatives and agencies to identify and address various challenges
31 and barriers.

32 (4) Membership of the work group must include, but not be limited
33 to, one or more representatives from:

34 (a) The departments of transportation, veterans affairs, health,
35 and (~~social and health services~~) the health care authority;

36 (b) Medicaid nonemergency medical transportation brokers;

37 (c) Public transit agencies;

1 (d) Regional and metropolitan transportation planning
2 organizations, including a representative of the regional
3 transportation planning organization or organizations that provide
4 staff support to the local coordinating coalition established under RCW
5 47.06B.070;

6 (e) Indian tribes;

7 (f) The agency council on coordinated transportation;

8 (g) The local coordinating coalitions established under RCW
9 47.06B.070; and

10 (h) The office of the superintendent of public instruction.

11 (5) The work group shall elect one or more of its members to
12 service as chair or cochairs.

13 (6) The work group shall immediately contact representatives of the
14 federal congressional delegation for Washington state and the relevant
15 federal agencies and coordinating authorities including, but not
16 limited to, the federal transit administration, the United States
17 department of health and human services, and the interagency
18 transportation coordinating council on access and mobility, and invite
19 the federal representatives to work collaboratively to:

20 (a) Identify transportation definitions and terminology used in the
21 various relevant state and federal programs, and establish consistent
22 transportation definitions and terminology. For purposes of this
23 subsection, relevant state definitions exclude terminology that
24 requires a medical determination, including whether a trip or service
25 is medically necessary;

26 (b) Identify restrictions or barriers that preclude federal, state,
27 and local agencies from sharing client lists or other client
28 information, and make progress towards removing any restrictions or
29 barriers;

30 (c) Identify relevant state and federal performance and cost
31 reporting systems and requirements, and work towards establishing
32 consistent and uniform performance and cost reporting systems and
33 requirements; and

34 (d) Explore, subject to federal approval, opportunities to test
35 cost allocation models, including the pilot projects established in RCW
36 47.06B.080, that:

37 (i) Allow for cost sharing among public paratransit and medicaid
38 nonemergency medical trips; and

1 (ii) Capture the value of medicaid trips provided by public transit
2 agencies for which they are not currently reimbursed with a funding
3 match by federal medicaid dollars.

4 (7) By December 1, 2009, the work group shall submit a report to
5 the joint transportation committee that explains the progress made
6 towards the goals of this section and identifies any necessary
7 legislative action that must be taken to implement all the provisions
8 of this section. A second progress report must be submitted to the
9 joint transportation committee by June 1, 2010, and a final report must
10 be submitted to the joint transportation committee by December 1, 2010.

11 **Sec. 76.** RCW 47.06B.070 and 2009 c 515 s 9 are each amended to
12 read as follows:

13 (1) A local coordinating coalition is created in each nonemergency
14 medical transportation brokerage region, as designated by the
15 (~~department of social and health services~~) health care authority,
16 that encompasses:

17 (a) A single county that has a population of more than seven
18 hundred fifty thousand but less than one million; and

19 (b) Five counties, and is comprised of at least one county that has
20 a population of more than four hundred thousand.

21 (2) The purpose of a local coordinating coalition is to advance
22 local efforts to coordinate and maximize efficiencies in special needs
23 transportation programs and services, contributing to the overall
24 objectives and goals of the agency council on coordinated
25 transportation. The local coordinating coalition shall serve in an
26 advisory capacity to the agency council on coordinated transportation
27 by providing the council with a focused and ongoing assessment of the
28 special transportation needs and services provided within its region.

29 (3) The composition and size of each local coordinating coalition
30 may vary by region. Local coordinating coalition members, appointed by
31 the chair of the agency council on coordinated transportation to two-
32 year terms, must reflect a balanced representation of the region's
33 providers of special needs transportation services and must include:

34 (a) Members of existing local coordinating coalitions, with
35 approval by those members;

36 (b) One or more representatives of the public transit agency or
37 agencies serving the region;

- 1 (c) One or more representatives of private service providers;
- 2 (d) A representative of civic or community-based service providers;
- 3 (e) A consumer of special needs transportation services;
- 4 (f) A representative of nonemergency medical transportation
- 5 medicaid brokers;
- 6 (g) A representative of social and human service programs;
- 7 (h) A representative of local high school districts; and
- 8 (i) A representative from the Washington state department of
- 9 veterans affairs.

10 (4) Each coalition shall vote on an annual basis to elect one of
11 its members to serve as chair. The position of chair must rotate among
12 the represented members at least every two years. If the position of
13 chair is vacated for any reason, the member representing the regional
14 transportation planning organization described in subsection (6) of
15 this section shall serve as acting chair until the next regular meeting
16 of the coalition, at which time the members will elect a chair.

17 (5) Regular meetings of the local coordinating coalition may be
18 convened at the call of the chair or by a majority of the members.
19 Meetings must be open to the public, and held in locations that are
20 readily accessible to public transportation.

21 (6) The regional transportation planning organization, as described
22 in chapter 47.80 RCW, serving the region in which the local
23 coordinating coalition is created shall provide necessary staff support
24 for the local coordinating coalition. In regions served by more than
25 one regional transportation planning organization, unless otherwise
26 agreed to by the relevant planning organizations, the regional
27 transportation planning organization serving the largest population
28 within the region shall provide the necessary staff support.

29 **Sec. 77.** RCW 48.01.235 and 2003 c 248 s 2 are each amended to read
30 as follows:

31 (1) An issuer and an employee welfare benefit plan, whether insured
32 or self funded, as defined in the employee retirement income security
33 act of 1974, 29 U.S.C. Sec. 1101 et seq. may not deny enrollment of a
34 child under the health plan of the child's parent on the grounds that:

- 35 (a) The child was born out of wedlock;
- 36 (b) The child is not claimed as a dependent on the parent's federal
- 37 tax return; or

1 (c) The child does not reside with the parent or in the issuer's,
2 or insured or self funded employee welfare benefit plan's service area.

3 (2) Where a child has health coverage through an issuer, or an
4 insured or self funded employee welfare benefit plan of a noncustodial
5 parent, the issuer, or insured or self funded employee welfare benefit
6 plan, shall:

7 (a) Provide such information to the custodial parent as may be
8 necessary for the child to obtain benefits through that coverage;

9 (b) Permit the provider or the custodial parent to submit claims
10 for covered services without the approval of the noncustodial parent.
11 If the provider submits the claim, the provider will obtain the
12 custodial parent's assignment of insurance benefits or otherwise secure
13 the custodial parent's approval.

14 For purposes of this subsection the (~~department of social and~~
15 ~~health services~~) health care authority as the state medicaid agency
16 under RCW 74.09.500 may reassign medical insurance rights to the
17 provider for custodial parents whose children are eligible for services
18 under RCW 74.09.500; and

19 (c) Make payments on claims submitted in accordance with (b) of
20 this subsection directly to the custodial parent, to the provider, or
21 to the (~~department of social and health services~~) health care
22 authority as the state medicaid agency under RCW 74.09.500.

23 (3) Where a child does not reside in the issuer's service area, an
24 issuer shall cover no less than urgent and emergent care. Where the
25 issuer offers broader coverage, whether by policy or reciprocal
26 agreement, the issuer shall provide such coverage to any child
27 otherwise covered that does not reside in the issuer's service area.

28 (4) Where a parent is required by a court order to provide health
29 coverage for a child, and the parent is eligible for family health
30 coverage, the issuer, or insured or self funded employee welfare
31 benefit plan, shall:

32 (a) Permit the parent to enroll, under the family coverage, a child
33 who is otherwise eligible for the coverage without regard to any
34 enrollment season restrictions;

35 (b) Enroll the child under family coverage upon application of the
36 child's other parent, (~~department of social and health services~~)
37 health care authority as the state medicaid agency under RCW 74.09.500,

1 or child support enforcement program, if the parent is enrolled but
2 fails to make application to obtain coverage for such child; and

3 (c) Not disenroll, or eliminate coverage of, such child who is
4 otherwise eligible for the coverage unless the issuer or insured or
5 self funded employee welfare benefit plan is provided satisfactory
6 written evidence that:

7 (i) The court order is no longer in effect; or

8 (ii) The child is or will be enrolled in comparable health coverage
9 through another issuer, or insured or self funded employee welfare
10 benefit plan, which will take effect not later than the effective date
11 of disenrollment.

12 (5) An issuer, or insured or self funded employee welfare benefit
13 plan, that has been assigned the rights of an individual eligible for
14 medical assistance under medicaid and coverage for health benefits from
15 the issuer, or insured or self funded employee welfare benefit plan,
16 may not impose requirements on the (~~department of social and health~~
17 ~~services~~) health care authority that are different from requirements
18 applicable to an agent or assignee of any other individual so covered.

19 **Sec. 78.** RCW 48.43.008 and 2007 c 259 s 24 are each amended to
20 read as follows:

21 When the (~~department of social and health services~~) health care
22 authority determines that it is cost-effective to enroll a person
23 eligible for medical assistance under chapter 74.09 RCW in an
24 employer-sponsored health plan, a carrier shall permit the enrollment
25 of the person in the health plan for which he or she is otherwise
26 eligible without regard to any open enrollment period restrictions.

27 **Sec. 79.** RCW 48.43.517 and 2007 c 5 s 7 are each amended to read
28 as follows:

29 When the (~~department of social and health services~~) health care
30 authority has determined that it is cost-effective to enroll a child
31 participating in a medical assistance program under chapter 74.09 RCW
32 in an employer-sponsored health plan, the carrier shall permit the
33 enrollment of the participant who is otherwise eligible for coverage in
34 the health plan without regard to any open enrollment restrictions.
35 The request for special enrollment shall be made by the (~~department~~)

1 authority or participant within sixty days of the (~~department's~~)
2 authority's determination that the enrollment would be cost-effective.

3 **Sec. 80.** RCW 69.41.030 and 2010 c 83 s 1 are each amended to read
4 as follows:

5 (1) It shall be unlawful for any person to sell, deliver, or
6 possess any legend drug except upon the order or prescription of a
7 physician under chapter 18.71 RCW, an osteopathic physician and surgeon
8 under chapter 18.57 RCW, an optometrist licensed under chapter 18.53
9 RCW who is certified by the optometry board under RCW 18.53.010, a
10 dentist under chapter 18.32 RCW, a podiatric physician and surgeon
11 under chapter 18.22 RCW, a veterinarian under chapter 18.92 RCW, a
12 commissioned medical or dental officer in the United States armed
13 forces or public health service in the discharge of his or her official
14 duties, a duly licensed physician or dentist employed by the veterans
15 administration in the discharge of his or her official duties, a
16 registered nurse or advanced registered nurse practitioner under
17 chapter 18.79 RCW when authorized by the nursing care quality assurance
18 commission, an osteopathic physician assistant under chapter 18.57A RCW
19 when authorized by the board of osteopathic medicine and surgery, a
20 physician assistant under chapter 18.71A RCW when authorized by the
21 medical quality assurance commission, or any of the following
22 professionals in any province of Canada that shares a common border
23 with the state of Washington or in any state of the United States: A
24 physician licensed to practice medicine and surgery or a physician
25 licensed to practice osteopathic medicine and surgery, a dentist
26 licensed to practice dentistry, a podiatric physician and surgeon
27 licensed to practice podiatric medicine and surgery, a licensed
28 advanced registered nurse practitioner, or a veterinarian licensed to
29 practice veterinary medicine: PROVIDED, HOWEVER, That the above
30 provisions shall not apply to sale, delivery, or possession by drug
31 wholesalers or drug manufacturers, or their agents or employees, or to
32 any practitioner acting within the scope of his or her license, or to
33 a common or contract carrier or warehouseman, or any employee thereof,
34 whose possession of any legend drug is in the usual course of business
35 or employment: PROVIDED FURTHER, That nothing in this chapter or
36 chapter 18.64 RCW shall prevent a family planning clinic that is under
37 contract with the (~~department of social and health services~~) health

1 care authority from selling, delivering, possessing, and dispensing
2 commercially prepackaged oral contraceptives prescribed by authorized,
3 licensed health care practitioners.

4 (2)(a) A violation of this section involving the sale, delivery, or
5 possession with intent to sell or deliver is a class B felony
6 punishable according to chapter 9A.20 RCW.

7 (b) A violation of this section involving possession is a
8 misdemeanor.

9 **Sec. 81.** RCW 69.41.190 and 2009 c 575 s 1 are each amended to read
10 as follows:

11 (1)(a) Except as provided in subsection (2) of this section, any
12 pharmacist filling a prescription under a state purchased health care
13 program as defined in RCW 41.05.011(2) shall substitute, where
14 identified, a preferred drug for any nonpreferred drug in a given
15 therapeutic class, unless the endorsing practitioner has indicated on
16 the prescription that the nonpreferred drug must be dispensed as
17 written, or the prescription is for a refill of an antipsychotic,
18 antidepressant, antiepileptic, chemotherapy, antiretroviral, or
19 immunosuppressive drug, or for the refill of a
20 immunomodulator/antiviral treatment for hepatitis C for which an
21 established, fixed duration of therapy is prescribed for at least
22 twenty-four weeks but no more than forty-eight weeks, in which case the
23 pharmacist shall dispense the prescribed nonpreferred drug.

24 (b) When a substitution is made under (a) of this subsection, the
25 dispensing pharmacist shall notify the prescribing practitioner of the
26 specific drug and dose dispensed.

27 (2)(a) A state purchased health care program may impose limited
28 restrictions on an endorsing practitioner's authority to write a
29 prescription to dispense as written only under the following
30 circumstances:

31 (i) There is statistical or clear data demonstrating the endorsing
32 practitioner's frequency of prescribing dispensed as written for
33 nonpreferred drugs varies significantly from the prescribing patterns
34 of his or her peers;

35 (ii) The medical director of a state purchased health program has:
36 (A) Presented the endorsing practitioner with data that indicates the
37 endorsing practitioner's prescribing patterns vary significantly from

1 his or her peers, (B) provided the endorsing practitioner an
2 opportunity to explain the variation in his or her prescribing patterns
3 to those of his or her peers, and (C) if the variation in prescribing
4 patterns cannot be explained, provided the endorsing practitioner
5 sufficient time to change his or her prescribing patterns to align with
6 those of his or her peers; and

7 (iii) The restrictions imposed under (a) of this subsection (2)
8 must be limited to the extent possible to reduce variation in
9 prescribing patterns and shall remain in effect only until such time as
10 the endorsing practitioner can demonstrate a reduction in variation in
11 line with his or her peers.

12 (b) A state purchased health care program may immediately designate
13 an available, less expensive, equally effective generic product in a
14 previously reviewed drug class as a preferred drug, without first
15 submitting the product to review by the pharmacy and therapeutics
16 committee established pursuant to RCW 70.14.050.

17 (c) For a patient's first course of treatment within a therapeutic
18 class of drugs, a state purchased health care program may impose
19 limited restrictions on endorsing practitioners' authority to write a
20 prescription to dispense as written, only under the following
21 circumstances:

22 (i) There is a less expensive, equally effective therapeutic
23 alternative generic product available to treat the condition;

24 (ii) The drug use review board established under WAC 388-530-4000
25 reviews and provides recommendations as to the appropriateness of the
26 limitation;

27 (iii) Notwithstanding the limitation set forth in (c)(ii) of this
28 subsection (2), the endorsing practitioner shall have an opportunity to
29 request as medically necessary, that the brand name drug be prescribed
30 as the first course of treatment;

31 (iv) The state purchased health care program may provide, where
32 available, prescription, emergency room, diagnosis, and hospitalization
33 history with the endorsing practitioner; and

34 (v) Specifically for antipsychotic restrictions, the state
35 purchased health care program shall effectively guide good practice
36 without interfering with the timeliness of clinical decision making.

37 (~~Department of social and health services~~) Health care authority

1 prior authorization programs must provide for responses within
2 twenty-four hours and at least a seventy-two hour emergency supply of
3 the requested drug.

4 (d) If, within a therapeutic class, there is an equally effective
5 therapeutic alternative over-the-counter drug available, a state
6 purchased health care program may designate the over-the-counter drug
7 as the preferred drug.

8 (e) A state purchased health care program may impose limited
9 restrictions on endorsing practitioners' authority to prescribe
10 pharmaceuticals to be dispensed as written for a purpose outside the
11 scope of their approved labels only under the following circumstances:

12 (i) There is a less expensive, equally effective on-label product
13 available to treat the condition;

14 (ii) The drug use review board established under WAC 388-530-4000
15 reviews and provides recommendations as to the appropriateness of the
16 limitation; and

17 (iii) Notwithstanding the limitation set forth in (e)(ii) of this
18 subsection (2), the endorsing practitioner shall have an opportunity to
19 request as medically necessary, that the drug be prescribed for a
20 covered off-label purpose.

21 (f) The provisions of this subsection related to the definition of
22 medically necessary, prior authorization procedures and patient appeal
23 rights shall be implemented in a manner consistent with applicable
24 federal and state law.

25 (3) Notwithstanding the limitations in subsection (2) of this
26 section, for refills for an antipsychotic, antidepressant,
27 antiepileptic, chemotherapy, antiretroviral, or immunosuppressive drug,
28 or for the refill of an immunomodulator antiviral treatment for
29 hepatitis C for which an established, fixed duration of therapy is
30 prescribed for at least twenty-four weeks by no more than forty-eight
31 weeks, the pharmacist shall dispense the prescribed nonpreferred drug.

32 **Sec. 82.** RCW 70.01.010 and 1985 c 213 s 14 are each amended to
33 read as follows:

34 In furtherance of the policy of this state to cooperate with the
35 federal government in the public health programs, the department of
36 social and health services and the health care authority, as
37 appropriate, shall adopt such rules and regulations as may become

1 necessary to entitle this state to participate in federal funds unless
2 the same be expressly prohibited by law. Any section or provision of
3 the public health laws of this state which may be susceptible to more
4 than one construction shall be interpreted in favor of the construction
5 most likely to satisfy federal laws entitling this state to receive
6 federal funds for the various programs of public health.

7 **Sec. 83.** RCW 70.47.010 and 2009 c 568 s 1 are each amended to read
8 as follows:

9 (1)(a) The legislature finds that limitations on access to health
10 care services for enrollees in the state, such as in rural and
11 underserved areas, are particularly challenging for the basic health
12 plan. Statutory restrictions have reduced the options available to the
13 (~~administrator~~) director to address the access needs of basic health
14 plan enrollees. It is the intent of the legislature to authorize the
15 (~~administrator~~) director to develop alternative purchasing strategies
16 to ensure access to basic health plan enrollees in all areas of the
17 state, including: (i) The use of differential rating for managed
18 health care systems based on geographic differences in costs; and (ii)
19 limited use of self-insurance in areas where adequate access cannot be
20 assured through other options.

21 (b) In developing alternative purchasing strategies to address
22 health care access needs, the (~~administrator~~) director shall consult
23 with interested persons including health carriers, health care
24 providers, and health facilities, and with other appropriate state
25 agencies including the office of the insurance commissioner and the
26 office of community and rural health. In pursuing such alternatives,
27 the (~~administrator~~) director shall continue to give priority to
28 prepaid managed care as the preferred method of assuring access to
29 basic health plan enrollees followed, in priority order, by preferred
30 providers, fee for service, and self-funding.

31 (2) The legislature further finds that:

32 (a) A significant percentage of the population of this state does
33 not have reasonably available insurance or other coverage of the costs
34 of necessary basic health care services;

35 (b) This lack of basic health care coverage is detrimental to the
36 health of the individuals lacking coverage and to the public welfare,

1 and results in substantial expenditures for emergency and remedial
2 health care, often at the expense of health care providers, health care
3 facilities, and all purchasers of health care, including the state; and

4 (c) The use of managed health care systems has significant
5 potential to reduce the growth of health care costs incurred by the
6 people of this state generally, and by low-income pregnant women, and
7 at-risk children and adolescents who need greater access to managed
8 health care.

9 (3) The purpose of this chapter is to provide or make more readily
10 available necessary basic health care services in an appropriate
11 setting to working persons and others who lack coverage, at a cost to
12 these persons that does not create barriers to the utilization of
13 necessary health care services. To that end, this chapter establishes
14 a program to be made available to those residents not eligible for
15 medicare who share in a portion of the cost or who pay the full cost of
16 receiving basic health care services from a managed health care system.

17 (4) It is not the intent of this chapter to provide health care
18 services for those persons who are presently covered through private
19 employer-based health plans, nor to replace employer-based health
20 plans. However, the legislature recognizes that cost-effective and
21 affordable health plans may not always be available to small business
22 employers. Further, it is the intent of the legislature to expand,
23 wherever possible, the availability of private health care coverage and
24 to discourage the decline of employer-based coverage.

25 (5)(a) It is the purpose of this chapter to acknowledge the initial
26 success of this program that has (i) assisted thousands of families in
27 their search for affordable health care; (ii) demonstrated that low-
28 income, uninsured families are willing to pay for their own health care
29 coverage to the extent of their ability to pay; and (iii) proved that
30 local health care providers are willing to enter into a public-private
31 partnership as a managed care system.

32 (b) As a consequence, the legislature intends to extend an option
33 to enroll to certain citizens above two hundred percent of the federal
34 poverty guidelines within the state who reside in communities where the
35 plan is operational and who collectively or individually wish to
36 exercise the opportunity to purchase health care coverage through the
37 basic health plan if the purchase is done at no cost to the state. It
38 is also the intent of the legislature to allow employers and other

1 financial sponsors to financially assist such individuals to purchase
2 health care through the program so long as such purchase does not
3 result in a lower standard of coverage for employees.

4 (c) The legislature intends that, to the extent of available funds,
5 the program be available throughout Washington state to subsidized and
6 nonsubsidized enrollees. It is also the intent of the legislature to
7 enroll subsidized enrollees first, to the maximum extent feasible.

8 (d) The legislature directs that the basic health plan
9 (~~administrator~~) director identify enrollees who are likely to be
10 eligible for medical assistance and assist these individuals in
11 applying for and receiving medical assistance. (~~The administrator and
12 the department of social and health services shall implement a seamless
13 system to coordinate eligibility determinations and benefit coverage
14 for enrollees of the basic health plan and medical assistance
15 recipients.~~) Enrollees receiving medical assistance are not eligible
16 for the Washington basic health plan.

17 **Sec. 84.** RCW 70.47.020 and 2009 c 568 s 2 are each reenacted and
18 amended to read as follows:

19 As used in this chapter:

20 (1) (~~"Administrator" means the Washington basic health plan
21 administrator, who also holds the position of administrator~~)
22 "Director" means the director of the Washington state health care
23 authority.

24 (2) "Health coverage tax credit eligible enrollee" means individual
25 workers and their qualified family members who lose their jobs due to
26 the effects of international trade and are eligible for certain trade
27 adjustment assistance benefits; or are eligible for benefits under the
28 alternative trade adjustment assistance program; or are people who
29 receive benefits from the pension benefit guaranty corporation and are
30 at least fifty-five years old.

31 (3) "Health coverage tax credit program" means the program created
32 by the Trade Act of 2002 (P.L. 107-210) that provides a federal tax
33 credit that subsidizes private health insurance coverage for displaced
34 workers certified to receive certain trade adjustment assistance
35 benefits and for individuals receiving benefits from the pension
36 benefit guaranty corporation.

1 (4) "Managed health care system" means: (a) Any health care
2 organization, including health care providers, insurers, health care
3 service contractors, health maintenance organizations, or any
4 combination thereof, that provides directly or by contract basic health
5 care services, as defined by the (~~administrator~~) director and
6 rendered by duly licensed providers, to a defined patient population
7 enrolled in the plan and in the managed health care system; or (b) a
8 self-funded or self-insured method of providing insurance coverage to
9 subsidized enrollees provided under RCW 41.05.140 and subject to the
10 limitations under RCW 70.47.100(7).

11 (5) "Nonsubsidized enrollee" means an individual, or an individual
12 plus the individual's spouse or dependent children: (a) Who is not
13 eligible for medicare; (b) who is not confined or residing in a
14 government-operated institution, unless he or she meets eligibility
15 criteria adopted by the (~~administrator~~) director; (c) who is accepted
16 for enrollment by the (~~administrator~~) director as provided in RCW
17 48.43.018, either because the potential enrollee cannot be required to
18 complete the standard health questionnaire under RCW 48.43.018, or,
19 based upon the results of the standard health questionnaire, the
20 potential enrollee would not qualify for coverage under the Washington
21 state health insurance pool; (d) who resides in an area of the state
22 served by a managed health care system participating in the plan; (e)
23 who chooses to obtain basic health care coverage from a particular
24 managed health care system; and (f) who pays or on whose behalf is paid
25 the full costs for participation in the plan, without any subsidy from
26 the plan.

27 (6) "Premium" means a periodic payment, which an individual, their
28 employer or another financial sponsor makes to the plan as
29 consideration for enrollment in the plan as a subsidized enrollee, a
30 nonsubsidized enrollee, or a health coverage tax credit eligible
31 enrollee.

32 (7) "Rate" means the amount, negotiated by the (~~administrator~~)
33 director with and paid to a participating managed health care system,
34 that is based upon the enrollment of subsidized, nonsubsidized, and
35 health coverage tax credit eligible enrollees in the plan and in that
36 system.

37 (8) "Subsidy" means the difference between the amount of periodic
38 payment the (~~administrator~~) director makes to a managed health care

1 system on behalf of a subsidized enrollee plus the administrative cost
2 to the plan of providing the plan to that subsidized enrollee, and the
3 amount determined to be the subsidized enrollee's responsibility under
4 RCW 70.47.060(2).

5 (9) "Subsidized enrollee" means:

6 (a) An individual, or an individual plus the individual's spouse or
7 dependent children:

8 (i) Who is not eligible for medicare;

9 (ii) Who is not confined or residing in a government-operated
10 institution, unless he or she meets eligibility criteria adopted by the
11 (~~administrator~~) director;

12 (iii) Who is not a full-time student who has received a temporary
13 visa to study in the United States;

14 (iv) Who resides in an area of the state served by a managed health
15 care system participating in the plan;

16 (v) Whose gross family income at the time of enrollment does not
17 exceed two hundred percent of the federal poverty level as adjusted for
18 family size and determined annually by the federal department of health
19 and human services;

20 (vi) Who chooses to obtain basic health care coverage from a
21 particular managed health care system in return for periodic payments
22 to the plan; and

23 (vii) Who is not receiving medical assistance administered by the
24 (~~department of social and health services~~) authority;

25 (b) An individual who meets the requirements in (a)(i) through
26 (iv), (vi), and (vii) of this subsection and who is a foster parent
27 licensed under chapter 74.15 RCW and whose gross family income at the
28 time of enrollment does not exceed three hundred percent of the federal
29 poverty level as adjusted for family size and determined annually by
30 the federal department of health and human services; and

31 (c) To the extent that state funds are specifically appropriated
32 for this purpose, with a corresponding federal match, an individual, or
33 an individual's spouse or dependent children, who meets the
34 requirements in (a)(i) through (iv), (vi), and (vii) of this subsection
35 and whose gross family income at the time of enrollment is more than
36 two hundred percent, but less than two hundred fifty-one percent, of
37 the federal poverty level as adjusted for family size and determined
38 annually by the federal department of health and human services.

1 (10) "Washington basic health plan" or "plan" means the system of
2 enrollment and payment for basic health care services, administered by
3 the plan (~~(administrator)~~) director through participating managed
4 health care systems, created by this chapter.

5 **Sec. 85.** RCW 70.47.110 and 1991 sp.s. c 4 s 3 are each amended to
6 read as follows:

7 The (~~department of social and health services~~) health care
8 authority may make payments to (~~the administrator or to~~)
9 participating managed health care systems on behalf of any enrollee who
10 is a recipient of medical care under chapter 74.09 RCW, at the maximum
11 rate allowable for federal matching purposes under Title XIX of the
12 social security act. Any enrollee on whose behalf the (~~department of~~
13 ~~social and health services~~) health care authority makes such payments
14 may continue as an enrollee, making premium payments based on the
15 enrollee's own income as determined under the sliding scale, after
16 eligibility for coverage under chapter 74.09 RCW has ended, as long as
17 the enrollee remains eligible under this chapter. Nothing in this
18 section affects the right of any person eligible for coverage under
19 chapter 74.09 RCW to receive the services offered to other persons
20 under that chapter but not included in the schedule of basic health
21 care services covered by the plan. The (~~administrator~~) director
22 shall seek to determine which enrollees or prospective enrollees may be
23 eligible for medical care under chapter 74.09 RCW and may require these
24 individuals to complete the eligibility determination process under
25 chapter 74.09 RCW prior to enrollment or continued participation in the
26 plan. The (~~administrator and the department of social and health~~
27 ~~services~~) director shall (~~cooperatively~~) adopt procedures to
28 facilitate the transition of plan enrollees and payments on their
29 behalf between the plan and the programs established under chapter
30 74.09 RCW.

31 **Sec. 86.** RCW 70.48.130 and 1993 c 409 s 1 are each amended to read
32 as follows:

33 (1) It is the intent of the legislature that all jail inmates
34 receive appropriate and cost-effective emergency and necessary medical
35 care. Governing units, the (~~department of social and health~~

1 ~~services))~~ health care authority, and medical care providers shall
2 cooperate to achieve the best rates consistent with adequate care.

3 (2) Payment for emergency or necessary health care shall be by the
4 governing unit, except that the (~~department of social and health~~
5 ~~services))~~ health care authority shall directly reimburse the provider
6 pursuant to chapter 74.09 RCW, in accordance with the rates and
7 benefits established by the (~~department~~) authority, if the confined
8 person is eligible under the (~~department's~~) authority's medical care
9 programs as authorized under chapter 74.09 RCW. After payment by the
10 (~~department~~) authority, the financial responsibility for any
11 remaining balance, including unpaid client liabilities that are a
12 condition of eligibility or participation under chapter 74.09 RCW,
13 shall be borne by the medical care provider and the governing unit as
14 may be mutually agreed upon between the medical care provider and the
15 governing unit. In the absence of mutual agreement between the medical
16 care provider and the governing unit, the financial responsibility for
17 any remaining balance shall be borne equally between the medical care
18 provider and the governing unit. Total payments from all sources to
19 providers for care rendered to confined persons eligible under chapter
20 74.09 RCW shall not exceed the amounts that would be paid by the
21 (~~department~~) authority for similar services provided under Title XIX
22 medicaid, unless additional resources are obtained from the confined
23 person.

24 (3) As part of the screening process upon booking or preparation of
25 an inmate into jail, general information concerning the inmate's
26 ability to pay for medical care shall be identified, including
27 insurance or other medical benefits or resources to which an inmate is
28 entitled. This information shall be made available to the
29 (~~department~~) authority, the governing unit, and any provider of
30 health care services.

31 (4) The governing unit or provider may obtain reimbursement from
32 the confined person for the cost of health care services not provided
33 under chapter 74.09 RCW, including reimbursement from any insurance
34 program or from other medical benefit programs available to the
35 confined person. Nothing in this chapter precludes civil or criminal
36 remedies to recover the costs of medical care provided jail inmates or
37 paid for on behalf of inmates by the governing unit. As part of a

1 judgment and sentence, the courts are authorized to order defendants to
2 repay all or part of the medical costs incurred by the governing unit
3 or provider during confinement.

4 (5) To the extent that a confined person is unable to be
5 financially responsible for medical care and is ineligible for the
6 (~~department's~~) authority's medical care programs under chapter 74.09
7 RCW, or for coverage from private sources, and in the absence of an
8 interlocal agreement or other contracts to the contrary, the governing
9 unit may obtain reimbursement for the cost of such medical services
10 from the unit of government whose law enforcement officers initiated
11 the charges on which the person is being held in the jail: PROVIDED,
12 That reimbursement for the cost of such services shall be by the state
13 for state prisoners being held in a jail who are accused of either
14 escaping from a state facility or of committing an offense in a state
15 facility.

16 (6) There shall be no right of reimbursement to the governing unit
17 from units of government whose law enforcement officers initiated the
18 charges for which a person is being held in the jail for care provided
19 after the charges are disposed of by sentencing or otherwise, unless by
20 intergovernmental agreement pursuant to chapter 39.34 RCW.

21 (7) Under no circumstance shall necessary medical services be
22 denied or delayed because of disputes over the cost of medical care or
23 a determination of financial responsibility for payment of the costs of
24 medical care provided to confined persons.

25 (8) Nothing in this section shall limit any existing right of any
26 party, governing unit, or unit of government against the person
27 receiving the care for the cost of the care provided.

28 **Sec. 87.** RCW 70.168.040 and 2010 c 161 s 1158 are each amended to
29 read as follows:

30 The emergency medical services and trauma care system trust account
31 is hereby created in the state treasury. Moneys shall be transferred
32 to the emergency medical services and trauma care system trust account
33 from the public safety education account or other sources as
34 appropriated, and as collected under RCW 46.63.110(7) and 46.68.440.
35 Disbursements shall be made by the department subject to legislative
36 appropriation. Expenditures may be made only for the purposes of the
37 state trauma care system under this chapter, including emergency

1 medical services, trauma care services, rehabilitative services, and
2 the planning and development of related services under this chapter and
3 for reimbursement by the (~~department of social and health services~~)
4 health care authority for trauma care services provided by designated
5 trauma centers.

6 **Sec. 88.** RCW 70.225.040 and 2007 c 259 s 45 are each amended to
7 read as follows:

8 (1) Prescription information submitted to the department shall be
9 confidential, in compliance with chapter 70.02 RCW and federal health
10 care information privacy requirements and not subject to disclosure,
11 except as provided in subsections (3) and (4) of this section.

12 (2) The department shall maintain procedures to ensure that the
13 privacy and confidentiality of patients and patient information
14 collected, recorded, transmitted, and maintained is not disclosed to
15 persons except as in subsections (3) and (4) of this section.

16 (3) The department may provide data in the prescription monitoring
17 program to the following persons:

18 (a) Persons authorized to prescribe or dispense controlled
19 substances, for the purpose of providing medical or pharmaceutical care
20 for their patients;

21 (b) An individual who requests the individual's own prescription
22 monitoring information;

23 (c) Health professional licensing, certification, or regulatory
24 agency or entity;

25 (d) Appropriate local, state, and federal law enforcement or
26 prosecutorial officials who are engaged in a bona fide specific
27 investigation involving a designated person;

28 (e) Authorized practitioners of the department of social and health
29 services and the health care authority regarding medicaid program
30 recipients;

31 (f) The director or director's designee within the department of
32 labor and industries regarding workers' compensation claimants;

33 (g) The director or the director's designee within the department
34 of corrections regarding offenders committed to the department of
35 corrections;

36 (h) Other entities under grand jury subpoena or court order; and

1 (i) Personnel of the department for purposes of administration and
2 enforcement of this chapter or chapter 69.50 RCW.

3 (4) The department may provide data to public or private entities
4 for statistical, research, or educational purposes after removing
5 information that could be used to identify individual patients,
6 dispensers, prescribers, and persons who received prescriptions from
7 dispensers.

8 (5) A dispenser or practitioner acting in good faith is immune from
9 any civil, criminal, or administrative liability that might otherwise
10 be incurred or imposed for requesting, receiving, or using information
11 from the program.

12 NEW SECTION. **Sec. 89.** The purpose of this chapter is to provide
13 the health care authority with the powers, duties, and authority with
14 respect to the collection of overpayments and the coordination of
15 benefits that are currently provided to the department of social and
16 health services in chapter 43.20B RCW. Providing the health care
17 authority with these powers is necessary for the authority to
18 administer medical services programs established under chapter 74.09
19 RCW currently administered by the department of social and health
20 services programs but transferred to the authority under this act. The
21 authority is authorized to collaborate with other state agencies in
22 carrying out its duties under this chapter and, to the extent
23 appropriate, may enter into agreements with such other agencies.
24 Nothing in this chapter may be construed as diminishing the powers,
25 duties, and authority granted to the department of social and health
26 services in chapter 43.20B RCW with respect to the programs that will
27 remain under its jurisdiction following enactment of this act.

28 NEW SECTION. **Sec. 90.** The definitions in this section apply
29 throughout this chapter unless the context clearly requires otherwise:

30 (1) "Assistance" means all programs administered by the authority.

31 (2) "Authority" means the Washington state health care authority.

32 (3) "Director" means the director of the Washington state health
33 care authority.

34 (4) "Overpayment" means any payment or benefit to a recipient or to
35 a vendor in excess of that to which is entitled by law, rule, or
36 contract, including amounts in dispute.

1 (5) "Vendor" means a person or entity that provides goods or
2 services to or for clientele of the authority and that controls
3 operational decisions.

4 NEW SECTION. **Sec. 91.** The authority is authorized to charge fees
5 for services provided unless otherwise prohibited by law. The fees may
6 be sufficient to cover the full cost of the service provided if
7 practical or may be charged on an ability-to-pay basis if practical.
8 This section does not supersede other statutory authority enabling the
9 assessment of fees by the authority. Whenever the authority is
10 authorized by law to collect total or partial reimbursement for the
11 cost of its providing care of or exercising custody over any person,
12 the authority shall collect the reimbursement to the extent practical.

13 NEW SECTION. **Sec. 92.** (1) Except as otherwise provided by law,
14 including subsection (2) of this section, there may be no collection of
15 overpayments and other debts due the authority after the expiration of
16 six years from the date of notice of such overpayment or other debt
17 unless the authority has commenced recovery action in a court of law or
18 unless an administrative remedy authorized by statute is in place.
19 However, any amount due in a case thus extended ceases to be a debt due
20 the authority at the expiration of ten years from the date of the
21 notice of the overpayment or other debt unless a court-ordered remedy
22 would be in effect for a longer period.

23 (2) There may be no collection of debts due the authority after the
24 expiration of twenty years from the date a lien is recorded pursuant to
25 section 97 of this act.

26 (3) The authority, at any time, may accept offers of compromise of
27 disputed claims or may grant partial or total write-off of any debt due
28 the authority if it is no longer cost-effective to pursue. The
29 authority shall adopt rules establishing the considerations to be made
30 in the granting or denial of a partial or total write-off of debts.

31 NEW SECTION. **Sec. 93.** The form of the lien in section 95 of this
32 act must be substantially as follows:

33 STATEMENT OF LIEN

34 Notice is hereby given that the State of Washington, Health Care
35 Authority, has rendered assistance to, a person who was

1 injured on or about the day of in the county of
2 state of , and the said authority hereby asserts
3 a lien, to the extent provided in section 95 of this act, for the
4 amount of such assistance, upon any sum due and owing (name
5 of injured person) from , alleged to have caused the injury,
6 and/or his or her insurer and from any other person or insurer liable
7 for the injury or obligated to compensate the injured person on account
8 of such injuries by contract or otherwise.

9 STATE OF WASHINGTON, HEALTH
10 CARE AUTHORITY

11 By: (Title)

12 STATE OF WASHINGTON }
13 } ss.
14 COUNTY OF }

15 I, , being first duly sworn, on oath state: That I
16 am (title); that I have read the foregoing Statement
17 of Lien, know the contents thereof, and believe the same to
18 be true.

19
20 Signed and sworn to or affirmed before me this
21 day of ,

22 by
23 (name of person making statement).

24 (Seal or stamp)

25
26 Notary Public in and for the State
27 of Washington
28 My appointment expires:

29 NEW SECTION. **Sec. 94.** (1) No settlement made by and between a
30 recipient and either the tort feasor or insurer, or both, discharges or
31 otherwise compromises the lien created in section 95 of this act
32 without the express written consent of the director or the director's
33 designee. Discretion to compromise such liens rests solely with the
34 director or the director's designee.

1 (2) No settlement or judgment may be entered purporting to
2 compromise the lien created by section 95 of this act without the
3 express written consent of the director or the director's designee.

4 NEW SECTION. **Sec. 95.** (1) To secure reimbursement of any
5 assistance paid as a result of injuries to or illness of a recipient
6 caused by the negligence or wrong of another, the authority is
7 subrogated to the recipient's rights against a tort feisor or the tort
8 feisor's insurer, or both.

9 (2) The authority has the right to file a lien upon any recovery by
10 or on behalf of the recipient from such tort feisor or the tort
11 feisor's insurer, or both, to the extent of the value of the assistance
12 paid by the authority: PROVIDED, That such lien is not effective
13 against recoveries subject to wrongful death when there are surviving
14 dependents of the deceased. The lien becomes effective upon filing
15 with the county auditor in the county where the assistance was
16 authorized or where any action is brought against the tort feisor or
17 insurer. The lien may also be filed in any other county or served upon
18 the recipient in the same manner as a civil summons if, in the
19 authority's discretion, such alternate filing or service is necessary
20 to secure the authority's interest. The additional lien is effective
21 upon filing or service.

22 (3) The lien of the authority may be against any claim, right of
23 action, settlement proceeds, money, or benefits arising from an
24 insurance program to which the recipient might be entitled (a) against
25 the tort feisor or insurer of the tort feisor, or both, and (b) under
26 any contract of insurance purchased by the recipient or by any other
27 person providing coverage for the illness or injuries for which the
28 assistance is paid or provided by the authority.

29 (4) If recovery is made by the authority under this section and the
30 subrogation is fully or partially satisfied through an action brought
31 by or on behalf of the recipient, the amount paid to the authority must
32 bear its proportionate share of attorneys' fees and costs.

33 (a) The determination of the proportionate share to be borne by the
34 authority must be based upon:

35 (i) The fees and costs approved by the court in which the action
36 was initiated; or

1 (ii) The written agreement between the attorney and client which
2 establishes fees and costs when fees and costs are not addressed by the
3 court.

4 (b) When fees and costs have been approved by a court, after notice
5 to the authority, the authority has the right to be heard on the matter
6 of attorneys' fees and costs or its proportionate share.

7 (c) When fees and costs have not been addressed by the court, the
8 authority shall receive at the time of settlement a copy of the written
9 agreement between the attorney and client which establishes fees and
10 costs and may request and examine documentation of fees and costs
11 associated with the case. The authority may bring an action in
12 superior court to void a settlement if it believes the attorneys'
13 calculation of its proportionate share of fees and costs is
14 inconsistent with the written agreement between the attorney and client
15 which establishes fees and costs or if the fees and costs associated
16 with the case are exorbitant in relation to cases of a similar nature.

17 (5) The rights and remedies provided to the authority in this
18 section to secure reimbursement for assistance, including the
19 authority's lien and subrogation rights, may be delegated to a managed
20 health care system by contract entered into pursuant to RCW 74.09.522.
21 A managed health care system may enforce all rights and remedies
22 delegated to it by the authority to secure and recover assistance
23 provided under a managed health care system consistent with its
24 agreement with the authority.

25 NEW SECTION. **Sec. 96.** (1) An attorney representing a person who,
26 as a result of injuries or illness sustained through the negligence or
27 wrong of another, has received, is receiving, or has applied to receive
28 shall:

29 (a) Notify the authority at the time of filing any claim against a
30 third party, commencing an action at law, negotiating a settlement, or
31 accepting a settlement offer from the tort feisor or the tort feisor's
32 insurer, or both; and

33 (b) Give the authority thirty days' notice before any judgment,
34 award, or settlement may be satisfied in any action or any claim by the
35 applicant or recipient to recover damages for such injuries or illness.

36 (2) The proceeds from any recovery made pursuant to any action or
37 claim described in section 95 of this act that is necessary to fully

1 satisfy the authority's lien against recovery must be placed in a trust
2 account or in the registry of the court until the authority's lien is
3 satisfied.

4 NEW SECTION. **Sec. 97.** (1) The authority shall file liens, seek
5 adjustment, or otherwise effect recovery for assistance correctly paid
6 on behalf of an individual consistent with 42 U.S.C. Sec. 1396p. The
7 authority shall adopt a rule providing for prior notice and hearing
8 rights to the record title holder or purchaser under a land sale
9 contract.

10 (2) Liens may be adjusted by foreclosure in accordance with chapter
11 61.12 RCW.

12 (3) In the case of an individual who was fifty-five years of age or
13 older when the individual received assistance, the authority shall seek
14 adjustment or recovery from the individual's estate, and from
15 nonprobate assets of the individual as defined by RCW 11.02.005, but
16 only for assistance consisting of services that the authority
17 determines to be appropriate, and related hospital and prescription
18 drug services. Recovery from the individual's estate, including
19 foreclosure of liens imposed under this section, must be undertaken as
20 soon as practicable, consistent with 42 U.S.C. Sec. 1396p.

21 (4) The authority shall apply the assistance estate recovery law as
22 it existed on the date that benefits were received when calculating an
23 estate's liability to reimburse the authority for those benefits.

24 (5)(a) The authority shall establish procedures consistent with
25 standards established by the federal department of health and human
26 services and pursuant to 42 U.S.C. Sec. 1396p to waive recovery when
27 such recovery would work an undue hardship. The authority shall
28 recognize an undue hardship for a surviving domestic partner whenever
29 recovery would not have been permitted if he or she had been a
30 surviving spouse. The authority is not authorized to pursue recovery
31 under such circumstances.

32 (b) Recovery of assistance from a recipient's estate may not
33 include property made exempt from claims by federal law or treaty,
34 including exemption for tribal artifacts that may be held by individual
35 Native Americans.

36 (6) A lien authorized under this section relates back to attach to

1 any real property that the decedent had an ownership interest in
2 immediately before death and is effective as of that date or date of
3 recording, whichever is earlier.

4 (7) The authority may enforce a lien authorized under this section
5 against a decedent's life estate or joint tenancy interest in real
6 property held by the decedent immediately prior to his or her death.
7 Such a lien enforced under this subsection may not end and must
8 continue as provided in this subsection until the authority's lien has
9 been satisfied.

10 (a) The value of the life estate subject to the lien is the value
11 of the decedent's interest in the property subject to the life estate
12 immediately prior to the decedent's death.

13 (b) The value of the joint tenancy interest subject to the lien is
14 the value of the decedent's fractional interest the recipient would
15 have owned in the jointly held interest in the property had the
16 recipient and the surviving joint tenants held title to the property as
17 tenants in common on the date of the recipient's death.

18 (c) The authority may not enforce the lien provided by this
19 subsection against a bona fide purchaser or encumbrancer that obtains
20 an interest in the property after the death of the recipient and before
21 the authority records either its lien or the request for notice of
22 transfer or encumbrance as provided by section 116 of this act.

23 (d) The authority may not enforce a lien provided by this
24 subsection against any property right that vested prior to July 1,
25 2005.

26 (8)(a) Subject to the requirements of 42 U.S.C. Sec. 1396p(a) and
27 the conditions of this subsection (8), the authority is authorized to
28 file a lien against the property of an individual prior to his or her
29 death, and to seek adjustment and recovery from the individual's estate
30 or sale of the property subject to the lien, if:

31 (i) The individual is an inpatient in a nursing facility,
32 intermediate care facility for persons with intellectual disabilities,
33 or other medical institution; and

34 (ii) The authority has determined after notice and opportunity for
35 a hearing that the individual cannot reasonably be expected to be
36 discharged from the medical institution and to return home.

37 (b) If the individual is discharged from the medical facility and
38 returns home, the authority shall dissolve the lien.

1 (9) The authority is authorized to adopt rules to effect recovery
2 under this section. The authority may adopt by rule later enactments
3 of the federal laws referenced in this section.

4 (10) It is the responsibility of the authority to fully disclose in
5 advance verbally and in writing, in easy to understand language, the
6 terms and conditions of estate recovery to all persons offered care
7 subject to recovery of payments.

8 (11) In disclosing estate recovery costs to potential clients, and
9 to family members at the consent of the client, the authority shall
10 provide a written description of the community service options.

11 NEW SECTION. **Sec. 98.** (1) Overpayments of assistance become a
12 lien against the real and personal property of the recipient from the
13 time of filing by the authority with the county auditor of the county
14 in which the recipient resides or owns property, and the lien claim has
15 preference over the claims of all unsecured creditors.

16 (2) Debts due the state for overpayments of assistance may be
17 recovered by the state by deduction from the subsequent assistance
18 payments to such persons, lien and foreclosure, or order to withhold
19 and deliver, or may be recovered by civil action.

20 NEW SECTION. **Sec. 99.** (1) Any person who owes a debt to the state
21 for an overpayment of assistance must be notified of that debt by
22 either personal service or certified mail, return receipt requested.
23 Personal service, return of the requested receipt, or refusal by the
24 debtor of such notice is proof of notice to the debtor of the debt
25 owed. Service of the notice must be in the manner prescribed for the
26 service of a summons in a civil action. The notice must include a
27 statement of the debt owed; a statement that the property of the debtor
28 will be subject to collection action after the debtor terminates from
29 assistance; a statement that the property will be subject to lien and
30 foreclosure, distraint, seizure and sale, or order to withhold and
31 deliver; and a statement that the net proceeds will be applied to the
32 satisfaction of the overpayment debt. Action to collect the debt by
33 lien and foreclosure, distraint, seizure and sale, or order to withhold
34 and deliver, is lawful after ninety days from the debtor's termination
35 from assistance or the receipt of the notice of debt, whichever is
36 later. This does not preclude the authority from recovering

1 overpayments by deduction from subsequent assistance payments, not
2 exceeding deductions as authorized under federal law with regard to
3 financial assistance programs: PROVIDED, That subject to federal legal
4 requirement, deductions may not exceed five percent of the grant
5 payment standard if the overpayment resulted from error on the part of
6 the authority or error on the part of the recipient without willful or
7 knowing intent of the recipient in obtaining or retaining the
8 overpayment.

9 (2) A current or former recipient who is aggrieved by a claim that
10 he or she owes a debt for an overpayment of assistance has the right to
11 an adjudicative proceeding pursuant to section 53 of this act. If no
12 application is filed, the debt is subject to collection action as
13 authorized under this chapter. If a timely application is filed, the
14 execution of collection action on the debt is stayed pending the final
15 adjudicative order or termination of the debtor from assistance,
16 whichever occurs later.

17 NEW SECTION. **Sec. 100.** (1) After service of a notice of debt for
18 an overpayment as provided for in section 99 of this act, stating the
19 debt accrued, the director may issue to any person, firm, corporation,
20 association, political subdivision, or department of the state an order
21 to withhold and deliver property of any kind including, but not
22 restricted to, earnings which are due, owing, or belonging to the
23 debtor, when the director has reason to believe that there is in the
24 possession of such person, firm, corporation, association, political
25 subdivision, or department of the state property which is due, owing,
26 or belonging to the debtor. The order to withhold and deliver must
27 state the amount of the debt, and must state in summary the terms of
28 this section, RCW 6.27.150 and 6.27.160, chapters 6.13 and 6.15 RCW, 15
29 U.S.C. Sec. 1673, and other state or federal exemption laws applicable
30 generally to debtors. The order to withhold and deliver must be served
31 in the manner prescribed for the service of a summons in a civil action
32 or by certified mail, return receipt requested. Any person, firm,
33 corporation, association, political subdivision, or department of the
34 state upon whom service has been made shall answer the order to
35 withhold and deliver within twenty days, exclusive of the day of
36 service, under oath and in writing, and shall make true answers to the
37 matters inquired of therein. The director may require further and

1 additional answers to be completed by the person, firm, corporation,
2 association, political subdivision, or department of the state. If any
3 such person, firm, corporation, association, political subdivision, or
4 department of the state possesses any property which may be subject to
5 the claim of the authority, such property must be withheld immediately
6 upon receipt of the order to withhold and deliver and must, after the
7 twenty-day period, upon demand, be delivered forthwith to the director.
8 The director shall hold the property in trust for application on the
9 indebtedness involved or for return, without interest, in accordance
10 with final determination of liability or nonliability. In the
11 alternative, there may be furnished to the director a good and
12 sufficient bond, satisfactory to the director, conditioned upon final
13 determination of liability. Where money is due and owing under any
14 contract of employment, express or implied, or is held by any person,
15 firm, corporation, association, political subdivision, or department of
16 the state subject to withdrawal by the debtor, such money must be
17 delivered by remittance payable to the order of the director. Delivery
18 to the director, subject to the exemptions under RCW 6.27.150 and
19 6.27.160, chapters 6.13 and 6.15 RCW, 15 U.S.C. Sec. 1673, and other
20 state or federal law applicable generally to debtors, of the money or
21 other property held or claimed satisfies the requirement of the order
22 to withhold and deliver. Delivery to the director serves as full
23 acquittance, and the state warrants and represents that it shall defend
24 and hold harmless for such actions persons delivering money or property
25 to the director pursuant to this chapter. The state also warrants and
26 represents that it shall defend and hold harmless for such actions
27 persons withholding money or property pursuant to this chapter.

28 (2) The director shall also, on or before the date of service of
29 the order to withhold and deliver, mail or cause to be mailed by
30 certified mail a copy of the order to withhold and deliver to the
31 debtor at the debtor's last known post office address or, in the
32 alternative, a copy of the order to withhold and deliver must be served
33 on the debtor in the same manner as a summons in a civil action on or
34 before the date of service of the order or within two days thereafter.
35 The copy of the order must be mailed or served together with a concise
36 explanation of the right to petition for a hearing on any issue related
37 to the collection. This requirement is not jurisdictional, but, if the
38 copy is not mailed or served as provided in this section, or if any

1 irregularity appears with respect to the mailing or service, the
2 superior court, on its discretion on motion of the debtor promptly made
3 and supported by affidavit showing that the debtor has suffered
4 substantial injury due to the failure to mail the copy, may set aside
5 the order to withhold and deliver and award to the debtor an amount
6 equal to the damages resulting from the director's failure to serve on
7 or mail to the debtor the copy.

8 NEW SECTION. **Sec. 101.** If any person, firm, corporation,
9 association, political subdivision, or department of the state fails to
10 answer an order to withhold and deliver within the time prescribed in
11 section 100 of this act, or fails or refuses to deliver property
12 pursuant to the order, or after actual notice of filing of a lien as
13 provided for in this chapter, pays over, releases, sells, transfers, or
14 conveys real or personal property subject to such lien to or for the
15 benefit of the debtor or any other person, or fails or refuses to
16 surrender upon demand property distrained under section 100 of this
17 act, or fails or refuses to honor an assignment of wages presented by
18 the director, such person, firm, corporation, association, political
19 subdivision, or department of the state is liable to the authority in
20 an amount equal to one hundred percent of the value of the debt which
21 is the basis of the lien, order to withhold and deliver, distraint, or
22 assignment of wages, together with costs, interest, and reasonable
23 attorneys' fees.

24 NEW SECTION. **Sec. 102.** Any person, firm, corporation,
25 association, political subdivision, or department employing a person
26 owing a debt for overpayment of assistance received shall honor,
27 according to its terms, a duly executed assignment of earnings
28 presented to the employer by the director as a plan to satisfy or
29 retire an overpayment debt. This requirement to honor the assignment
30 of earnings is applicable whether the earnings are to be paid presently
31 or in the future and continues in force and effect until released in
32 writing by the director. Payment of moneys pursuant to an assignment
33 of earnings presented to the employer by the director serves as full
34 acquittance under any contract of employment, and the state warrants
35 and represents it shall defend and hold harmless such action taken

1 pursuant to the assignment of earnings. The director is released from
2 liability for improper receipt of moneys under assignment of earnings
3 upon return of any moneys so received.

4 NEW SECTION. **Sec. 103.** If an improper real property transfer is
5 made as defined in RCW 74.08.331 through 74.08.338, the authority may
6 request the attorney general to file suit to rescind the transaction
7 except as to subsequent bona fide purchasers for value. If it is
8 established by judicial proceedings that a fraudulent conveyance
9 occurred, the value of any assistance which has been furnished may be
10 recovered in any proceedings from the recipient or the recipient's
11 estate.

12 NEW SECTION. **Sec. 104.** When the authority provides assistance to
13 persons who possess excess real property under RCW 74.04.005(11)(g),
14 the authority may file a lien against or otherwise perfect its interest
15 in such real property as a condition of granting such assistance, and
16 the authority has the status of a secured creditor.

17 NEW SECTION. **Sec. 105.** (1) When the authority determines that a
18 vendor was overpaid by the authority for either goods or services, or
19 both, provided to authority clients, except nursing homes under chapter
20 74.46 RCW, the authority shall give written notice to the vendor. The
21 notice must include the amount of the overpayment, the basis for the
22 claim, and the rights of the vendor under this section.

23 (2) The notice may be served upon the vendor in the manner
24 prescribed for the service of a summons in civil action or be mailed to
25 the vendor at the last known address by certified mail, return receipt
26 requested, demanding payment within twenty days of the date of receipt.

27 (3) The vendor has the right to an adjudicative proceeding governed
28 by the administrative procedure act, chapter 34.05 RCW, and the rules
29 of the authority. The vendor's application for an adjudicative
30 proceeding must be in writing, state the basis for contesting the
31 overpayment notice, and include a copy of the authority's notice. The
32 application must be served on and received by the authority within
33 twenty-eight days of the vendor's receipt of the notice of overpayment.
34 The vendor must serve the authority in a manner providing proof of
35 receipt.

1 (4) Where an adjudicative proceeding has been requested, the
2 presiding or reviewing office shall determine the amount, if any, of
3 the overpayment received by the vendor.

4 (5) If the vendor fails to attend or participate in the
5 adjudicative proceeding, upon a showing of valid service, the presiding
6 or reviewing officer may enter an administrative order declaring the
7 amount claimed in the notice to be assessed against the vendor and
8 subject to collection action by the authority.

9 (6) Failure to make an application for an adjudicative proceeding
10 within twenty-eight days of the date of notice results in the
11 establishment of a final debt against the vendor in the amount asserted
12 by the authority and that amount is subject to collection action. The
13 authority may also charge the vendor with any costs associated with the
14 collection of any final overpayment or debt established against the
15 vendor.

16 (7) The authority may enforce a final overpayment or debt through
17 lien and foreclosure, distraint, seizure and sale, order to withhold
18 and deliver, or other collection action available to the authority to
19 satisfy the debt due.

20 (8) Debts determined under this chapter are subject to collection
21 action without further necessity of action by a presiding or reviewing
22 officer. The authority may collect the debt in accordance with
23 sections 100, 101, and 106 of this act. In addition, a vendor lien may
24 be subject to distraint and seizure and sale in the same manner as
25 prescribed for support liens in RCW 74.20A.130.

26 (9) Chapter 66, Laws of 1998 applies to overpayments for goods or
27 services provided on or after July 1, 1998.

28 (10) The authority may adopt rules consistent with this section.

29 NEW SECTION. **Sec. 106.** (1) The authority may, at the director's
30 discretion, secure the repayment of any outstanding overpayment, plus
31 interest, if any, through the filing of a lien against the vendor's
32 real property, or by requiring the posting of a bond, assignment of
33 deposit, or some other form of security acceptable to the authority, or
34 by doing both.

35 (a) Any lien is effective from the date of filing for record with
36 the county auditor of the county in which the property is located and

1 the lien claim has preference over the claims of all unsecured
2 creditors.

3 (b) The authority shall review and determine the acceptability of
4 all other forms of security.

5 (c) Any bond must be issued by a company licensed as a surety in
6 the state of Washington.

7 (d) This subsection does not apply to nursing homes licensed under
8 chapter 18.51 RCW or portions of hospitals licensed under chapter 70.41
9 RCW and operating as a nursing home, if those facilities are subject to
10 chapter 74.46 RCW.

11 (2) The authority may recover any overpayment, plus interest, if
12 any, by setoff or recoupment against subsequent payments to the vendor.

13 NEW SECTION. **Sec. 107.** Liens created under section 106 of this
14 act bind the affected property for a period of ten years after the lien
15 has been recorded or ten years after the resolution of all good faith
16 disputes as to the overpayment, whichever is later. Any civil action
17 by the authority to enforce such lien must be timely commenced before
18 the ten-year period expires or the lien is released. A civil action to
19 enforce such lien is not timely commenced unless the summons and
20 complaint are filed within the ten-year period in a court having
21 jurisdiction and service of the summons and complaint is made upon all
22 parties in the manner prescribed by appropriate civil court rules.

23 NEW SECTION. **Sec. 108.** Any action to enforce a vendor overpayment
24 debt must be commenced within six years from the date of the
25 authority's notice to the vendor.

26 NEW SECTION. **Sec. 109.** The remedies under sections 106 and 107 of
27 this act are nonexclusive and nothing contained in this chapter may be
28 construed to impair or affect the right of the authority to maintain a
29 civil action or to pursue any other remedies available to it under the
30 laws of this state to recover such debt.

31 NEW SECTION. **Sec. 110.** (1) Except as provided in subsection (4)
32 of this section, vendors shall pay interest on overpayments at the rate
33 of one percent per month or portion thereof. Where partial repayment

1 of an overpayment is made, interest accrues on the remaining balance.
2 Interest must not accrue when the overpayment occurred due to authority
3 error.

4 (2) If the overpayment is discovered by the vendor prior to
5 discovery and notice by the authority, the interest begins accruing
6 ninety days after the vendor notifies the authority of such
7 overpayment.

8 (3) If the overpayment is discovered by the authority prior to
9 discovery and notice by the vendor, the interest begins accruing thirty
10 days after the date of notice by the authority to the vendor.

11 (4) This section does not apply to:
12 (a) Interagency or intergovernmental transactions; and
13 (b) Contracts for public works, goods and services procured for the
14 exclusive use of the authority, equipment, or travel.

15 NEW SECTION. **Sec. 111.** (1) To avoid a duplicate payment of
16 benefits, a recipient of assistance from the authority is deemed to
17 have subrogated the authority to the recipient's right to recover
18 temporary total disability compensation due to the recipient and the
19 recipient's dependents under Title 51 RCW, to the extent of such
20 assistance or compensation, whichever is less. However, the amount to
21 be repaid to the authority must bear its proportionate share of
22 attorneys' fees and costs, if any, incurred under Title 51 RCW by the
23 recipient or the recipient's dependents.

24 (2) The authority may assert and enforce a lien and notice to
25 withhold and deliver to secure reimbursement. The authority shall
26 identify in the lien and notice to withhold and deliver the recipient
27 of assistance and temporary total disability compensation and the
28 amount claimed by the authority.

29 NEW SECTION. **Sec. 112.** The effective date of the lien and notice
30 to withhold and deliver provided in section 111 of this act is the day
31 that it is received by the department of labor and industries or a
32 self-insurer as defined in chapter 51.08 RCW. Service of the lien and
33 notice to withhold and deliver may be made personally, by regular mail
34 with postage prepaid, or by electronic means. A statement of lien and
35 notice to withhold and deliver must be mailed to the recipient at the
36 recipient's last known address by certified mail, return receipt

1 requested, no later than two business days after the authority mails,
2 delivers, or transmits the lien and notice to withhold and deliver to
3 the department of labor and industries or a self-insurer.

4 NEW SECTION. **Sec. 113.** The director of labor and industries or
5 the director's designee, or a self-insurer as defined in chapter 51.08
6 RCW, following receipt of the lien and notice to withhold and deliver,
7 shall deliver to the director of the authority or the director's
8 designee any temporary total disability compensation payable to the
9 recipient named in the lien and notice to withhold and deliver up to
10 the amount claimed. The director of labor and industries or
11 self-insurer shall withhold and deliver from funds currently in the
12 director's or self-insurer's possession or from any funds that may at
13 any time come into the director's or self-insurer's possession on
14 account of temporary total disability compensation payable to the
15 recipient named in the lien and notice to withhold and deliver.

16 NEW SECTION. **Sec. 114.** (1) A recipient feeling aggrieved by the
17 action of the authority in recovering his or her temporary total
18 disability compensation as provided in sections 111 through 115 of this
19 act has the right to an adjudicative proceeding.

20 (2) A recipient seeking an adjudicative proceeding shall file an
21 application with the director within twenty-eight days after the
22 statement of lien and notice to withhold and deliver was mailed to the
23 recipient. If the recipient files an application more than
24 twenty-eight days after, but within one year of, the date the statement
25 of lien and notice to withhold and deliver was mailed, the recipient is
26 entitled to a hearing if the recipient shows good cause for the
27 recipient's failure to file a timely application. The filing of a late
28 application does not affect prior collection action pending the final
29 adjudicative order. Until good cause for failure to file a timely
30 application is decided, the authority may continue to collect under the
31 lien and notice to withhold and deliver.

32 (3) The proceeding shall be governed by chapter 34.05 RCW, the
33 administrative procedure act.

34 NEW SECTION. **Sec. 115.** Sections 111 through 114 of this act and

1 this section do not apply to persons whose eligibility for benefits
2 under Title 51 RCW is based upon an injury or illness occurring prior
3 to July 1, 1972.

4 NEW SECTION. **Sec. 116.** (1) When an individual receives assistance
5 subject to recovery under this chapter and the individual is the holder
6 of record title to real property or the purchaser under a land sale
7 contract, the authority may present to the county auditor for recording
8 in the deed and mortgage records of a county a request for notice of
9 transfer or encumbrance of the real property. The authority shall
10 adopt a rule providing prior notice and hearing rights to the record
11 title holder or purchaser under a land sale contract.

12 (2) The authority shall present to the county auditor for recording
13 a termination of request for notice of transfer or encumbrance when, in
14 the judgment of the authority, it is no longer necessary or appropriate
15 for the authority to monitor transfers or encumbrances related to the
16 real property.

17 (3) The authority shall adopt by rule a form for the request for
18 notice of transfer or encumbrance and the termination of request for
19 notice of transfer or encumbrance that, at a minimum:

20 (a) Contains the name of the assistance recipient and a case
21 identifier or other appropriate information that links the individual
22 who is the holder of record title to real property or the purchaser
23 under a land sale contract to the individual's assistance records;

24 (b) Contains the legal description of the real property;

25 (c) Contains a mailing address for the authority to receive the
26 notice of transfer or encumbrance; and

27 (d) Complies with the requirements for recording in RCW 36.18.010
28 for those forms intended to be recorded.

29 (4) The authority shall pay the recording fee required by the
30 county clerk under RCW 36.18.010.

31 (5) The request for notice of transfer or encumbrance described in
32 this section does not affect title to real property and is not a lien
33 on, encumbrance of, or other interest in the real property.

34 NEW SECTION. **Sec. 117.** (1) By December 10, 2011, the department
35 of social and health services and the health care authority shall
36 provide a preliminary report, and by December 1, 2012, provide a final

1 implementation plan, to the governor and the legislature with
2 recommendations regarding the role of the health care authority in the
3 state's purchasing of mental health treatment, substance abuse
4 treatment, and long-term care services, including services for those
5 with developmental disabilities.

6 (2) The reports shall:

7 (a) Consider options for effectively coordinating the purchase and
8 delivery of care for people who need long-term care, developmental
9 disabilities, mental health, or chemical dependency services. Options
10 considered may include, but are not limited to, transitioning purchase
11 of these services from the department of social and health services to
12 the health care authority, and strategies for the agencies to
13 collaborate seamlessly while purchasing services separately; and

14 (b) Address the following components:

15 (i) Incentives to improve prevention efforts;

16 (ii) Service delivery approaches, including models for care
17 management and care coordination and benefit design;

18 (iii) Rules to assure that those requiring long-term care services
19 and supports receive that care in the least restrictive setting
20 appropriate to their needs;

21 (iv) Systems to measure cost savings;

22 (v) Mechanisms to measure health outcomes and consumer
23 satisfaction;

24 (vi) The designation of a single point of entry for financial and
25 functional eligibility determinations for long-term care services; and

26 (vii) Process for collaboration with local governments.

27 (3) In developing these recommendations, the agencies shall:

28 (a) Consult with tribal governments and with interested
29 stakeholders, including consumers, health care and other service
30 providers, health insurance carriers, and local governments; and

31 (b) Cooperate with the joint select committee on health reform
32 implementation established in House Concurrent Resolution No. 4404 and
33 any of its advisory committees. The agencies shall strongly consider
34 the guidance and input received from these forums in the development of
35 its recommendations.

36 (4) The agencies shall submit a progress report to the governor and
37 the legislature by November 15, 2013, that provides details on the
38 agencies' progress on purchasing coordination to date.

1 **Sec. 118.** RCW 74.09A.005 and 2007 c 179 s 1 are each amended to
2 read as follows:

3 The legislature finds that:

4 (1) Simplification in the administration of payment of health
5 benefits is important for the state, providers, and health insurers;

6 (2) The state, providers, and health insurers should take advantage
7 of all opportunities to streamline operations through automation and
8 the use of common computer standards;

9 (3) It is in the best interests of the state, providers, and health
10 insurers to identify all third parties that are obligated to cover the
11 cost of health care coverage of joint beneficiaries; and

12 (4) Health insurers, as a condition of doing business in
13 Washington, must increase their effort to share information with the
14 ~~((department))~~ authority and accept the ~~((department's))~~ authority's
15 timely claims consistent with 42 U.S.C. 1396a(a)(25).

16 Therefore, the legislature declares that to improve the
17 coordination of benefits between the ~~((department of social and health
18 services))~~ health care authority and health insurers to ensure that
19 medical insurance benefits are properly utilized, a transfer of
20 information between the ~~((department))~~ authority and health insurers
21 should be instituted, and the process for submitting requests for
22 information and claims should be simplified.

23 **Sec. 119.** RCW 74.09A.010 and 2007 c 179 s 2 are each amended to
24 read as follows:

25 For the purposes of this chapter:

26 (1) ~~(("Department"))~~ "Authority" means the ~~((department of social
27 and health services))~~ Washington state health care authority.

28 (2) "Health insurance coverage" includes any policy, contract, or
29 agreement under which health care items or services are provided,
30 arranged, reimbursed, or paid for by a health insurer.

31 (3) "Health insurer" means any party that is, by statute, policy,
32 contract, or agreement, legally responsible for payment of a claim for
33 a health care item or service, including, but not limited to, a
34 commercial insurance company providing disability insurance under
35 chapter 48.20 or 48.21 RCW, a health care service contractor providing
36 health care coverage under chapter 48.44 RCW, a health maintenance
37 organization providing comprehensive health care services under chapter

1 48.46 RCW, an employer or union self-insured plan, any private insurer,
2 a group health plan, a service benefit plan, a managed care
3 organization, a pharmacy benefit manager, and a third party
4 administrator.

5 (4) "Computerized" means online or batch processing with
6 standardized format via magnetic tape output.

7 (5) "Joint beneficiary" is an individual who has health insurance
8 coverage and is a recipient of public assistance benefits under chapter
9 74.09 RCW.

10 **Sec. 120.** RCW 74.09A.020 and 2007 c 179 s 3 are each amended to
11 read as follows:

12 (1) The ((department)) authority shall provide routine and periodic
13 computerized information to health insurers regarding client
14 eligibility and coverage information. Health insurers shall use this
15 information to identify joint beneficiaries. Identification of joint
16 beneficiaries shall be transmitted to the ((department)) authority.
17 The ((department)) authority shall use this information to improve
18 accuracy and currency of health insurance coverage and promote improved
19 coordination of benefits.

20 (2) To the maximum extent possible, necessary data elements and a
21 compatible database shall be developed by affected health insurers and
22 the ((department)) authority. The ((department)) authority shall
23 establish a representative group of health insurers and state agency
24 representatives to develop necessary technical and file specifications
25 to promote a standardized database. The database shall include
26 elements essential to the ((department)) authority and its population's
27 health insurance coverage information.

28 (3) If the state and health insurers enter into other agreements
29 regarding the use of common computer standards, the database identified
30 in this section shall be replaced by the new common computer standards.

31 (4) The information provided will be of sufficient detail to
32 promote reliable and accurate benefit coordination and identification
33 of individuals who are also eligible for ((department)) authority
34 programs.

35 (5) The frequency of updates will be mutually agreed to by each
36 health insurer and the ((department)) authority based on frequency of

1 change and operational limitations. In no event shall the computerized
2 data be provided less than semiannually.

3 (6) The health insurers and the ((department)) authority shall
4 safeguard and properly use the information to protect records as
5 provided by law, including but not limited to chapters 42.48, 74.09,
6 74.04, 70.02, and 42.56 RCW, and 42 U.S.C. Sec. 1396a and 42 C.F.R.
7 Sec. 43 et seq. The purpose of this exchange of information is to
8 improve coordination and administration of benefits and ensure that
9 medical insurance benefits are properly utilized.

10 (7) The ((department)) authority shall target implementation of
11 this section to those health insurers with the highest probability of
12 joint beneficiaries.

13 **Sec. 121.** RCW 74.09A.030 and 2007 c 179 s 4 are each amended to
14 read as follows:

15 Health insurers, as a condition of doing business in Washington,
16 must:

17 (1) Provide, with respect to individuals who are eligible for, or
18 are provided, medical assistance under chapter 74.09 RCW, upon the
19 request of the ((department)) authority, information to determine
20 during what period the individual or their spouses or their dependants
21 may be, or may have been, covered by a health insurer and the nature of
22 coverage that is or was provided by the health insurer, including the
23 name, address, and identifying number of the plan, in a manner
24 prescribed by the ((department)) authority;

25 (2) Accept the ((department's)) authority's right to recovery and
26 the assignment to the ((department)) authority of any right of an
27 individual or other entity to payment from the party for an item or
28 service for which payment has been made under chapter 74.09 RCW;

29 (3) Respond to any inquiry by the ((department)) authority
30 regarding a claim for payment for any health care item or service that
31 is submitted not later than three years after the date of the provision
32 of such health care item or service;

33 (4) Agree not to deny a claim submitted by the ((department))
34 authority solely on the basis of the date of submission of the claim,
35 the type or format of the claim form, or a failure to present proper
36 documentation at the point-of-sale that is the basis of the claim, if:

1 (a) The claim is submitted by the (~~department~~) authority within
2 the three-year period beginning on the date the item or service was
3 furnished; and

4 (b) Any action by the (~~department~~) authority to enforce its
5 rights with respect to such claim is commenced within six years of the
6 (~~department's~~) authority's submission of such claim; and

7 (5) Agree that the prevailing party in any legal action to enforce
8 this section receives reasonable attorneys' fees as well as related
9 collection fees and costs incurred in the enforcement of this section.

10 NEW SECTION. **Sec. 122.** The following acts or parts of acts are
11 each repealed:

12 (1) RCW 74.09.085 (Contracts--Performance measures--Financial
13 incentives) and 2005 c 446 s 3;

14 (2) RCW 74.09.110 (Administrative personnel--Professional
15 consultants and screeners) and 1979 c 141 s 339 & 1959 c 26 s
16 74.09.110;

17 (3) RCW 74.09.5221 (Medical assistance--Federal standards--
18 Waivers--Application) and 1997 c 231 s 112;

19 (4) RCW 74.09.5227 (Implementation date--Payments for services
20 provided by rural hospitals) and 2001 2nd sp.s. c 2 s 3;

21 (5) RCW 74.09.755 (AIDS--Community-based care--Federal social
22 security act waiver) and 1989 c 427 s 12;

23 (6) RCW 43.20A.860 (Requirement to seek federal waivers and state
24 law changes to medical assistance program) and 1995 c 265 s 26; and

25 (7) RCW 74.04.270 (Audit of accounts--Uniform accounting system)
26 and 1979 c 141 s 304 & 1959 c 26 s 74.04.270.

27 **Sec. 123.** RCW 74.09.015 and 2007 c 259 s 16 are each amended to
28 read as follows:

29 To the extent that sufficient funding is provided specifically for
30 this purpose, the (~~department, in collaboration with the health care~~)
31 authority(~~(-)~~) shall provide all persons receiving services under this
32 chapter with access to a twenty-four hour, seven day a week nurse
33 hotline. The (~~health care~~) authority (~~(and the department of social~~
34 ~~and health services)~~) shall determine the most appropriate way to
35 provide the nurse hotline under RCW 41.05.037 and this section, which
36 may include use of the 211 system established in chapter 43.211 RCW.

1 NEW SECTION. **Sec. 124.** A new section is added to chapter 43.20A
2 RCW to read as follows:

3 The secretary shall enter into agreements with the director of the
4 health care authority, in his or her capacity as the director of the
5 designated single state agency to administer medical services programs
6 under Titles XIX and XXI of the social security act, to establish the
7 division of responsibilities between the agencies with respect to
8 mental health, chemical dependency, and long-term care services,
9 including services for people with developmental disabilities. The
10 agreements shall be revised, as necessary, to comply with the final
11 implementation plan adopted in section 117 of this act.

12 NEW SECTION. **Sec. 125.** (1) All powers, duties, and functions of
13 the department of social and health services pertaining to the medical
14 assistance program and the medicaid purchasing administration are
15 transferred to the health care authority to the extent necessary to
16 carry out the purposes of this act. All references to the secretary or
17 the department of social and health services in the Revised Code of
18 Washington shall be construed to mean the director or the health care
19 authority when referring to the functions transferred in this section.

20 (2)(a) All reports, documents, surveys, books, records, files,
21 papers, or written material in the possession of the department of
22 social and health services pertaining to the powers, functions, and
23 duties transferred shall be delivered to the custody of the health care
24 authority. All cabinets, furniture, office equipment, motor vehicles,
25 and other tangible property employed by the department of social and
26 health services in carrying out the powers, functions, and duties
27 transferred shall be made available to the health care authority. All
28 funds, credits, or other assets held in connection with the powers,
29 functions, and duties transferred shall be assigned to the health care
30 authority.

31 (b) Any appropriations made to the department of social and health
32 services for carrying out the powers, functions, and duties transferred
33 shall, on the effective date of this section, be transferred and
34 credited to the health care authority.

35 (c) Whenever any question arises as to the transfer of any
36 personnel, funds, books, documents, records, papers, files, equipment,
37 or other tangible property used or held in the exercise of the powers

1 and the performance of the duties and functions transferred, the
2 director of financial management shall make a determination as to the
3 proper allocation and certify the same to the state agencies concerned.

4 (3) All employees of the medicaid purchasing administration at the
5 department of social and health services are transferred to the
6 jurisdiction of the health care authority. All employees classified
7 under chapter 41.06 RCW, the state civil service law, are assigned to
8 the health care authority to perform their usual duties upon the same
9 terms as formerly, without any loss of rights, subject to any action
10 that may be appropriate thereafter in accordance with the laws and
11 rules governing state civil service.

12 (4) All rules and all pending business before the department of
13 social and health services pertaining to the powers, functions, and
14 duties transferred shall be continued and acted upon by the health care
15 authority. All existing contracts and obligations shall remain in full
16 force and shall be performed by the health care authority.

17 (5) The transfer of the powers, duties, functions, and personnel of
18 the department of social and health services shall not affect the
19 validity of any act performed before the effective date of this
20 section.

21 (6) If apportionments of budgeted funds are required because of the
22 transfers directed by this section, the director of financial
23 management shall certify the apportionments to the agencies affected,
24 the state auditor, and the state treasurer. Each of these shall make
25 the appropriate transfer and adjustments in funds and appropriation
26 accounts and equipment records in accordance with the certification.

27 (7) A nonsupervisory medicaid purchasing unit bargaining unit is
28 created at the health care authority. All nonsupervisory civil service
29 employees of the medicaid purchasing administration at the department
30 of social and health services assigned to the health care authority
31 under this section whose positions are within the existing bargaining
32 unit description at the department of social and health services shall
33 become a part of the nonsupervisory medicaid purchasing unit bargaining
34 unit at the health care authority under the provisions of chapter 41.80
35 RCW. The exclusive bargaining representative of the existing
36 bargaining unit at the department of social and health services is
37 certified as the exclusive bargaining representative of the

1 nonsupervisory medicaid purchasing unit bargaining unit at the health
2 care authority without the necessity of an election.

3 (8) A supervisory medicaid purchasing unit bargaining unit is
4 created at the health care authority. All supervisory civil service
5 employees of the medicaid purchasing administration at the department
6 of social and health services assigned to the health care authority
7 under this section whose positions are within the existing bargaining
8 unit description at the department of social and health services shall
9 become a part of the supervisory medicaid purchasing unit bargaining
10 unit at the health care authority under the provisions of chapter 41.80
11 RCW. The exclusive bargaining representative of the existing
12 bargaining unit at the department of social and health services is
13 certified as the exclusive bargaining representative of the supervisory
14 medicaid purchasing unit bargaining unit at the health care authority
15 without the necessity of an election.

16 (9) The bargaining units of employees created under this section
17 are appropriate units under the provisions of chapter 41.80 RCW.
18 However, nothing contained in this section shall be construed to alter
19 the authority of the public employment relations commission under the
20 provisions of chapter 41.80 RCW to amend or modify the bargaining
21 units.

22 (10) Positions from the department of social and health services
23 central administration are transferred to the jurisdiction of the
24 health care authority. Employees classified under chapter 41.06 RCW,
25 the state civil service law, are assigned to the health care authority
26 to perform their usual duties upon the same terms as formerly, without
27 any loss of rights, subject to any action that may be appropriate
28 thereafter in accordance with the laws and rules governing state civil
29 service.

30 (11) All classified employees of the department of social and
31 health services central administration assigned to the health care
32 authority under subsection (10) of this section whose positions are
33 within an existing bargaining unit description at the health care
34 authority shall become a part of the existing bargaining unit at the
35 health care authority and shall be considered an appropriate inclusion
36 or modification of the existing bargaining unit under the provisions of
37 chapter 41.80 RCW.

1 NEW_SECTION. **Sec. 126.** The code reviser shall note wherever
2 "administrator" is used or referred to in the Revised Code of
3 Washington as the head of the health care authority that the title of
4 the agency head has been changed to "director." The code reviser shall
5 prepare legislation for the 2012 regular session that changes all
6 statutory references to "administrator" of the health care authority to
7 "director" of the health care authority.

8 NEW_SECTION. **Sec. 127.** RCW 43.20A.365 is recodified as a section
9 in chapter 74.09 RCW.

10 NEW_SECTION. **Sec. 128.** Sections 89 through 116 of this act
11 constitute a new chapter in Title 41 RCW, to be codified as chapter
12 41.05A RCW.

13 NEW_SECTION. **Sec. 129.** Sections 74 through 76 of this act expire
14 June 30, 2012.

15 NEW_SECTION. **Sec. 130.** If any provision of this act or its
16 application to any person or circumstance is held invalid, the
17 remainder of the act or the application of the provision to other
18 persons or circumstances is not affected.

19 NEW_SECTION. **Sec. 131.** This act is necessary for the immediate
20 preservation of the public peace, health, or safety, or support of the
21 state government and its existing public institutions, and takes effect
22 July 1, 2011.

--- END ---